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U.S. Federal Trade
Commission

Trade practice conference
for the motion picture...

Washington

1928

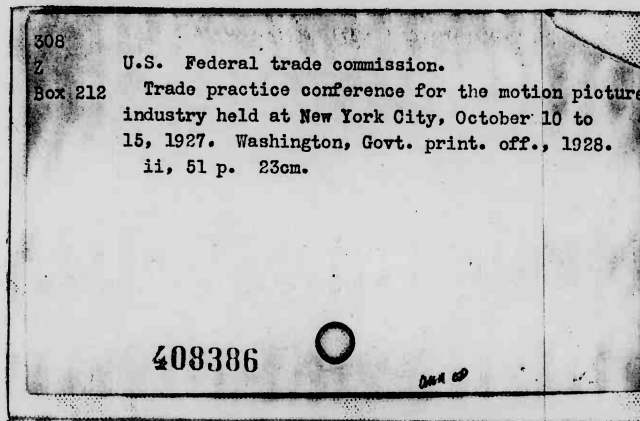
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FEDERAL TRADE COMMISSION

TRADE PRACTICE CONFERENCE
FOR THE
MOTION PICTURE
INDUSTRY

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Box 212

HELD AT
NEW YORK CITY, OCTOBER 10 to 15, 1927

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UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON
1928

FEDERAL TRADE COMMISSION

WILLIAM E. HUMPHREY, *Chairman.*
ABRAM F. MYERS.
EDGAR A. McCULLOCH.
GARLAND S. FERGUSON, Jr.
C. W. HUNT.

OTIS B. JOHNSON, *Secretary.*

TRADE PRACTICE CONFERENCE—MOTION-
PICTURE INDUSTRY

STATEMENT BY THE COMMISSION

FEDERAL TRADE COMMISSION,
WASHINGTON, D. C., *May 25, 1928.*

During the week of October 10, 1927, a trade practice conference was held for the motion-picture industry in the assembly room of the bar association of the city of New York. The conference was conducted by Abram F. Myers, commissioner of the Federal Trade Commission, assisted by M. Markham Flannery, director of trade practice conferences.

The industry, consisting of producers, distributors, and exhibitors, was represented in practically its entirety.

Of 37 resolutions offered and discussed, 26 were unanimously adopted. On 5 there was a strict division of the vote, the independent exhibitors voting in opposition to the producers and distributors. Four resolutions were withdrawn and two did not reach a vote before adjournment.

The resolutions as here presented have been renumbered and divided into four groups. The rules appearing in Group I have been approved by the commission. The rules in Group II have been received and accepted by the commission as expressions of the trade. The resolution appearing in Group III is disapproved by the commission. The resolutions under Group IV are held in abeyance without further action of the commission, as the sharp division of the vote cast indicates a total lack of agreement as between the opposing branches of the industry.

GROUP I

RULE ONE

(Formerly exhibitors' Resolution No. 6)

Whereas the motion-picture industry recognizes that commercial arbitration promotes good will, economy, and better standards of business, and is endeavoring to develop in the most complete way possible a system of arbitration for the settlement of disputes between distributors and exhibitors which will be both fair to all and speedily expedient; and

Whereas it is the desire of all branches of the industry to use a uniform exhibition contract, both to standardize its contractual relations and to provide for such arbitration; and

Whereas it is the further desire of all branches of the industry that the standard exhibition contract so providing for such system of arbitration shall be fair as possible at this time and shall be changed or modified as from time to time experience may demonstrate that it should be changed, and the further desire that the present provisions of such contract and all future changes or modifications herein shall themselves be subject to arbitration, and the further desire that the rules and regulations for the arbitration of all disputes arising under such contract shall be as fair as possible at this time and shall be changed or modified from time to time by arbitration, as experience may demonstrate and warrant that they should be; and

Whereas it is believed that changes can be effected in such standard exhibition contract to improve the same: Now, therefore, be it

Resolved, (1) That to carry out the purposes of this resolution and the desire of all branches of the industry to promote fair arbitration and contractual relations, a committee of six shall be immediately designated, consisting of three members chosen by the unaffiliated exhibitor delegates here assembled and three members chosen by the producer-distributor delegates here assembled; that three affiliated exhibitor delegates without right to vote may participate in the work of this committee; that such committee shall immediately institute a study of the provisions of such standard exhibition contract and the rules for the arbitration provided for therein, and develop improvement in such contract and in such rules for arbitration, and develop a plan for the further operation of arbitration. In the event the exhibitor members and producer-distributor members of said committee are unable to agree, a seventh member of such committee shall be designated, such seventh member to be chosen unanimously by the six members, and if such six members can not unanimously agree on such seventh member, then the Chief Justice of the Supreme Court of the United States shall be asked by such committee to appoint its seventh member.

(2) That after such adoption of such modified standard exhibition contract and such modified rules of arbitration, it shall be the further purpose of such committee to have periodical considerations of both said contract and rules of arbitration at consistent periods, under the plan therefor which said committee shall develop to consider whether changes in such standard exhibition contract and arbitration rules are warranted by experience, and at such periodical deliberations the seventh member may be called in for decisions.

(3) It is understood that such amended standard exhibition contract and amended rules of arbitration shall be ready for use for the season 1928-29: Be it further

Resolved, That the use of a standard uniform contract providing for arbitration both of disputes arising out of said contract and of the provisions of the contract itself, is a fair trade practice.

Received as a resolution of the conference with one opposing vote.

PERSONNEL OF COMMITTEE SELECTED TO CARRY OUT THE REQUIREMENTS OF EXHIBITORS' RESOLUTION NO. 6 (RULE ONE, GROUP 1)

For the affiliated exhibitors.—E. A. Schiller, Harold Franklin, Fred Desberg. Alternates: E. V. Richards, Dan Michaelove, Harry M. Crandall.

For the unaffiliated exhibitors.—R. R. Beichele, Ben Bernstein, Nathan Yamins. Alternates: J. L. Rome, H. A. Cole, Joseph Walsh.

For distributors and producers.—Felix Feist, J. R. Grainger, Phil Reisman.

RULE TWO

(Formerly exhibitors' Resolution No. 7)

Resolved, That the insertion of commercial advertising, for which compensation is received, in motion-picture productions leased to exhibitors as entertainment is unfair trade practice.

RULE THREE

(Formerly exhibitors' Resolution No. 9)

Resolved, That the substitution by a producer or distributor for any photoplay contracted for by any exhibitor, as the photoplay of a specified star or of a specified director, or as based upon a specified story, book, or play, of any photoplay in which such specified star does not appear, or which has not been directed by such specified director, or which is not based upon such specified story, book, or play, as the case may be, unless with the consent of the exhibitor, is an unfair trade practice.

Example.—This resolution was adopted with the understanding that if the contract mentions neither star, cast, director, nor author in the description of the story, which in the work sheet is described as a play of college life, but when delivered proves to be a story dealing with the mining fields of Pennsylvania, would be a substitution within the meaning of the resolution.

RULE FOUR

(Formerly distributors' Resolution No. 1)

Resolved, That the requirement by any distributor that an exhibitor as a condition of being permitted to purchase any picture of such distributor shall also purchase pictures of another distributor, is an unfair trade practice.

RULE FIVE

(Formerly distributors' Resolution No. 4)

Whereas the use of misleading or salacious advertising is recognized as an evil, and

Whereas the distributors of motion pictures represented in the membership of the film boards of trade themselves will not use misleading or salacious advertising in connection with their product:

Resolved, That it is a fair trade practice to use their best efforts to discourage others in the industry from using misleading or salacious advertising.

RULE SIX

(Formerly distributors' Resolution No. 8)

The purchasing of photoplays for a specific theater, which photoplays are also used in other theaters uncontracted for, commonly known as "bicycling," is an unfair trade practice.

RULE SEVEN

(Formerly distributors' Resolution No. 9)

Deliberately returning a print late, thus securing additional exhibition time without payment of the rental therefor, or by reason of such delay making it impossible to ship such print to the next exhibitor who has it booked, is an unfair trade practice.

RULE EIGHT

(Formerly distributors' Resolution No. 10)

Resolved, That the giving of any gratuity, either by an exhibitor to a salesman or a salesman to an exhibitor, in exchange for advantages not otherwise procurable between buyer and seller, either in relation to the sale or booking of motion pictures, is an unfair trade practice.

RULE NINE

(Formerly distributors' Resolution No. 11)

Resolved, That the use of a signed application for a contract by an exhibitor, and the showing of the rental prices thereon, either by a distributor to another exhibitor for the purpose of securing higher rental prices, or by an exhibitor to a distributor other than to whom such application is addressed, for the purpose of securing a reduction of rental prices, is an unfair trade practice.

RULE TEN

(Formerly distributors' Resolution No. 13)

Resolved, That the practice of contracting for pictures for one theater and using service at an entirely different theater than the one specified in the contract is an unfair trade practice.

RULE ELEVEN

(Formerly distributors' Resolution No. 14)

Resolved, That failure on the part of the exhibitor to promptly report correctly the results of percentage bookings is an unfair trade practice.

RULE TWELVE

(Formerly distributors' Resolution No. 16)

Resolved, That any agreement among competing exhibitors to allocate among themselves the motion pictures of distributors, thereby eliminating competition in the rental of such motion pictures, is an unfair trade practice.

RULE THIRTEEN

(Formerly distributors' Resolution No. 16-A)

Resolved, That any agreement among distributors to prevent any exhibitor from contracting for the motion pictures of such distributors, or to exact from such exhibitor a higher rental for the motion pictures of such distributors than could otherwise be obtained in open competition, is an unfair trade practice.

RULE FOURTEEN

(Formerly distributors' Resolution No. 18)

Resolved, That the use of buying power for the purchase of more photoplays than an exhibitor can consume, in order to deprive a competing exhibitor of the opportunity of purchasing his supply of photoplays, whether it be an attempt to corner the market against such competing exhibitor, or whether it be with the thought of forcing a competing exhibitor out of business, or the compelling of such competing exhibitor to sell his theater, is an unfair trade practice.

RULE FIFTEEN

(Formerly producers' Resolution No. 6)

Whereas the following rule or regulation has been adopted by all the members of the Motion Picture Producers and Distributors of America (Inc.):

"No member shall directly or indirectly or through the instrumentality of any officer, employee, agent, representative, or servant of such member, or otherwise offer or cause to be offered any money inducement or advantage of any kind to any actor, director, or employee of any other producer or distributor in an effort to persuade or induce such actor, director, or employee to become dissatisfied with such employment and to breach any contract between such actor, director, or employee and any other producer or distributor."

Resolved, That such a rule is a fair trade practice.

All of the above resolutions were unanimously adopted.

GROUP II

The rules in this group have been received by the commission as expressions of the trade.

RULE SIXTEEN

(Formerly distributors' Resolution No. 8)

Whereas the Motion Picture Producers and Distributors of America (Inc.), has allied itself with the International Advertising Association, the National Association of Credit Men, the American Bankers' Association, and the National Better Business Bureau, to prevent fraudulent activities: Now therefore be it

Resolved, That the proper educational work of the Motion Picture Producers and Distributors of America (Inc.), in cooperation with such other organizations, with respect to any attempted fraudulent enterprises relating to motion pictures, to the end that the public may not be defrauded by fake motion-picture production schemes, fake motion-picture acting schools, fake motion-picture scenario schools, or other dishonest enterprises which trade on the public's ambition to become a part of the motion-picture industry, is a fair trade practice.

RULE SEVENTEEN

(Formerly distributors' Resolution No. 5)

Whereas it is a trade practice to enforce in 482 film exchanges in the United States rules and regulations for the prevention of fire more drastic than those provided by the State and city fire commissioners, and fire drills are conducted each week, a safety committee comprising three branch exchange managers and secretary of the local film board of trade conducts a rigid monthly inspection enforcing regulations regarding general housekeeping conditions to prevent fire, including regulations against smoking, protecting film or waste matter from contact with radiators, steam pipes, and electric lights, testing sprinkler systems and fire extinguishers, eliminating the use of any inflammable material in the shipping and inspection departments and preventing accumulation of scrap film, and every other possible regulation to protect the lives of employees and to insure safety; and

Whereas the reports of the safety committee are checked in the home office of the film board of trade; and any violation of any rule or regulation is im-

lately corrected; and as a result of this work fires in film exchanges have been practically eliminated; and since January 1, 1927, there has been no fire loss in any department in the distribution of film:

Resolved, That such regulation of film exchanges is a fair trade practice.

RULE EIGHTEEN

(Formerly distributors' Resolution No. 6)

Whereas, throughout the United States to-day more than 1,500 public, private, and charitable sectarian and nonsectarian institutions for caring for "shut-ins" are showing motion pictures; and such motion-picture programs are furnished to these various institutions by national and regional distributors through the various film boards of trade under a plan whereby the responsibility for such distribution is divided among all members of each board; and in most instances such motion-picture programs are furnished free of charge to such institutions as orphan asylums, homes for the aged, tuberculosis hospitals, and institutions housing war veterans; and

Whereas in some cases they are furnished upon payment of the postal or express charges to ship and return the films, and in other instances where institutions have appropriations available with which to purchase entertainment for the inmates, nominal charges are made; and

Whereas in all instances motion-picture films are furnished to such institutions with the understanding that they are to be shown only to the inmates and attendants of their respective institutions and that the general public is not to be admitted either free of charge or for an admission charge: Now therefore be it

Resolved, That the admission of the public, either free of charge or for an admission charge, to any such motion-picture entertainment or performance is an unfair trade practice and unfair competition to theater owners; and

Resolved, That the showing of motion pictures in such institutions where the public is not admitted, either free of charge, or for an admission charge, is a fair trade practice.

RULE NINETEEN

(Formerly distributors' Resolution No. 7)

That the practice of transferring title to a theater without making an honest and sincere effort for the transferring at the same time of existing contracts is an unfair trade practice.

RULE TWENTY

(Formerly producers' Resolution No. 1)

Whereas the Motion Picture Producers and Distributors of America (Inc.), consisting of the following companies, to wit:

Bray Productions (Inc.),
Chadwick Productions,
Christie Film Co. (Inc.),
Cecil B. de Mille Pictures Corporation,
Distinctive Pictures Corporation,
Eastman Kodak Co.,
Educational Film Exchanges (Inc.),
F. B. O. Pictures Corporation,
First National Pictures (Inc.),
Fox Film Corporation,

D. W. Griffith (Inc.),
Inspiration Pictures (Inc.),
Buster Keaton Productions,
Kinogram Publishing Corporation,
Metro-Goldwyn-Mayer Distributing Corporation,
Paramount Famous-Lasky Corporation,
Principal Pictures Corporation,
Producers Distributing Corporation,
Pathe Exchange (Inc.),
Hal Roach Studios,
Joseph M. Schenck Productions (Inc.),
Talmadge Producing Corporation,
United Artists Corporation,
Universal Pictures Corporation,
Vitagraph (Inc.),
Warner Bros. Pictures (Inc.), and the

Association of Motion Picture Producers (Inc.), of California, which consists of the following companies, to wit:

Christie Film Co. Inc.,
Cecil B. de Mille Pictures Corporation,
F. B. O. Pictures Corporation,
First National Productions Corporation,
William Fox Vaudeville Co.,
Samuel Goldwyn (Inc.),
Harold Lloyd Corporation,
Metro-Goldwyn-Mayer Corporation,
Metropolitan Pictures Corporation,
Paramount Famous-Lasky Corporation,
Hal Roach Studios, Inc.,
Mack Sennett (Inc.),
United Artists Studio Corporation,
Universal Pictures Corporation,
Warner Bros. Pictures (Inc.),
Jack White Comedy Corporation,
Asher, Small & Rogers (Inc.),
Kane Productions (Inc.),
Sam E. Rork (Inc.),

have subscribed to the following preamble and resolution:

"Whereas the members of the Motion Picture Producers and Distributors of America (Inc.), in their continuing effort to 'establish and maintain the highest possible moral and artistic standards of motion-picture production,' are engaged in a special effort to prevent the prevalent type of book and play from becoming the prevalent type of picture; to exercise every possible care that only books or plays which are of the right type are used for screen presentation; to avoid the picturization of books or plays which can be produced only after such changes as to leave the producer subject to a charge of deception; to avoid using titles which are indicative of a kind of picture which could not be produced, or by their suggestiveness seek to obtain attendance by deception, a thing equally reprehensible; and to prevent misleading, salacious, or dishonest advertising: Now, therefore, be it

Resolved, By the board of directors of the Motion Picture Producers and Distributors of America (Inc.), That said association does hereby reaffirm

its determination to carry out its purposes above set out, and does hereby repledge the best efforts of the members of the association to that end, and does hereby further declare that they will not produce or promote the production, distribute or promote the distribution, exhibit or promote the exhibition, or aid in any way whatsoever in the production, distribution, or exhibition by the members of this association, or by companies subsidiary to said members, or by any other person, firm, or corporation producing, distributing, or exhibiting pictures, of any picture or pictures, by whomsoever produced, distributed, or exhibited, which because of the unfit character of title, story, exploitation, or picture itself, do not meet the requirements of this preamble and resolution or hinder the fulfillment of the purposes of the association set out herein."

"And whereas in carrying out the purposes of the aforesaid resolution when any company member of the Motion Picture Producers and Distributors of America (Inc.) is offered the screen rights to a book or play of a questionable nature its representatives immediately inform the officers of that association; and if the judgment of the member company to the effect that the picturization of the subject matter is inadvisable is confirmed a notice is sent to all the other member companies giving the name of the objectionable book or play, and such company members thus having their attention directed to the subject in question have the opportunity of avoiding the picturization of the novel or play."

Resolved, That this is a fair trade practice.

RULE TWENTY-ONE

(Formerly producers' Resolution No. 2)

Whereas, for the purpose of further establishing and maintaining the highest possible moral and artistic standards in motion pictures, the following companies, members of the Motion Picture Producers and Distributors of America (Inc.), to wit (see list of companies shown under rule 20, Group II), have adopted the following formula with reference to the selection and rejection of certain story material for picturization:

"*Resolved*, That those things which are included in the following list shall not appear in pictures produced by the members of this association, irrespective of the manner in which they are treated:

"1. Pointed profanity—by either title or lip—this includes the words 'God,' 'Lord,' 'Jesus,' 'Christ,' (unless they be used reverently in connection with proper religious ceremonies), 'hell,' 'damn,' 'Gawd,' and every other profane and vulgar expression however it may be spelled;

"2. Any licentious or suggestive nudity—in fact or in silhouette; and any lecherous or licentious notice thereof by other characters in the picture;

"3. The illegal traffic in drugs;

"4. Any inference of sex perversion;

"5. White slavery;

"6. Miscegenation (sex relationships between the white and black races);

"7. Sex hygiene and venereal diseases;

"8. Scenes of actual child-birth—in fact or in silhouette;

"9. Children's sex organs;

"10. Ridicule of the clergy;

"11. Willful offense to any nation, race, or creed: And be it further

"*Resolved*, That special care be exercised in the manner in which the following subjects are treated, to the end that vulgarity and suggestiveness may be eliminated and that good taste may be emphasized:

"1. The use of the flag;

"2. International relations (avoiding picturizing in an unfavorable light another country's religion, history, institutions, prominent people, and citizenry);

"3. Arson.

"4. The use of firearms;

"5. Theft, robbery, safe-cracking, and dynamiting of trains, mines, buildings, etc. (having in mind the effect which a too-detailed description of these may have upon the moron);

"6. Brutality and possible gruesomeness;

"7. Technique of committing murder by whatever method.

"8. Methods of smuggling.

"9. Third-degree methods.

"10. Actual hangings or electrocutions as legal punishment for crime.

"11. Sympathy for criminals.

"12. Attitude toward public characters and institutions.

"13. Sedition.

"14. Apparent cruelty to children and animals.

"15. Branding of people or animals.

"16. The sale of women, or of a woman selling her virtue.

"17. Rape or attempted rape.

"18. First-night scenes.

"19. Man and woman in bed together.

"20. Deliberate seduction of girls;

"21. The institution of marriage;

"22. Surgical operations;

"23. The use of drugs;

"24. Titles of scenes having to do with the law enforcement or law-enforcing officers;

"25. Excessive or lustful kissing, particularly when one character or the other is a 'heavy':"

Resolved, That the execution of the purposes of this resolution is a fair trade practice.

RULE TWENTY-TWO

(Formerly producers' Resolution No. 3)

Whereas there existed a practice with respect to the securing of employment by extras in motion-picture studios through agencies which charged them a fee of from 8 to 15 per cent for placing such extras each time they secured a position through such agencies; and

Whereas, besides certain legitimate casting agencies, there were many questionable agencies that preyed upon would-be motion-picture extras and by their activities brought great discredit upon the motion-picture industry; and

Whereas, at the request of the Motion Picture Producers and Distributors of America (Inc.), the Russell Sage Foundation made a survey of the entire situation in conjunction with the State Labor Commission of California and the Association of Motion Picture Producers of California; and

Whereas the findings of the survey resulted in a joint recommendation that the industry operate and maintain free of cost to the motion-picture extra a central employment bureau; and

Whereas the Central Casting Corporation has been established and has been functioning in the recommended manner for a period of 21 months and has made 502,916 placements in that time without cost to the extra, and has

brought about certain other betterments in working conditions of such extras: Now therefore be it

Resolved, That the establishment and functioning of such a nonprofit casting bureau be, and the same hereby is, declared to be a fair trade practice.

RULE TWENTY-THREE

(Formerly producers' Resolution No. 4)

Whereas the Los Angeles Board of Education and the State of California labor authorities were experiencing great difficulty in restraining the improper exploitation of children in motion pictures by their parents, which resulted in nonattendance at school and an insufficient ratio of work and recreation; and

Whereas the Association of Motion Picture Producers and the California State Labor Bureau and the Department of Compulsory Education of Los Angeles by joint recommendation consummated the present method by which a teacher is supplied by the board of education and paid for by the producers in every studio, together with similar financing of classroom facilities where children are engaged in motion-picture production, so that each child works not more than four hours during the day and has its regular schooling and recreation; and

Whereas, any child not proficient in its lessons can not secure a permit to work in pictures, with the result that the practice of improperly exploiting the child has been entirely eliminated: Now, therefore be it

Resolved, That the present formula obtaining in respect to the employment of minors in motion-picture production, as set forth in the foregoing preamble, is a fair trade practice.

RULE TWENTY-FOUR

(Formerly producers' Resolution No. 5)

Whereas producers at times desire to lend employees under contract for whose service there exists no current necessity; and

Whereas the services of such temporarily disengaged contract employee may be desired by another producer; and

Whereas waste is avoided and the interests of both employer and employee are advanced by continuous employment: Now therefore be it

Resolved, That the practice of a producer lending an employee under contract to another producer for an amount equal to the salary paid to the contract employee plus a reasonable amount to absorb the fair pro rata of such employee's idle time, is a fair trade practice.

RULE TWENTY-FIVE

(Formerly producers' Resolution No. 7)

Whereas, to avoid duplication and conflict in titles for motion pictures, the members of the Motion Picture Producers and Distributors of America (Inc.) have a plan for the registering with the Motion Picture Producers and Distributors of America (Inc.) of their intention to produce a certain motion picture under a certain title, and through such registration have exclusive right to that title; and

Whereas such plan further provides that if the title registered duplicates or conflicts with a title already registered by another member of the Motion Picture Producers and Distributors of America (Inc.), the parties whose titles conflict are notified so that they may confer to avoid conflict, with the under-

standing that the company first registering a title possesses the right to use the title unless it voluntarily withdraws its prior registration in favor of the later one, or it is shown that the member making the later registration has, by purchase or otherwise, obtained prior legal right to the title: Be it

Resolved, That this is a fair trade practice.

AGREED STATEMENT OF POLICY PROPOSED BY PRODUCER-DISTRIBUTOR GROUPS AND ACCEPTED BY EXHIBITORS

(Held in abeyance until results can be determined from its actual effect upon the motion-picture industry)

1. The sales method known as block booking shall not be used for the accomplishment of any illegal purpose.

2. No distributor will require as a condition of permitting an exhibitor to lease its pictures that such exhibitor shall also lease pictures of another distributor.

3. If an exhibitor shall claim within a reasonable time prior to the date fixed for the exhibition of any picture included in any block leased by him that such picture will be offensive to the clientele of his theater because of racial or religious subject matter, such claim shall be arbitrated by the board of arbitration of the proper zone, and, if sustained, such exhibitor shall be relieved of obligation to take and pay for such picture.

4. If any exhibitor who has purchased an entire block of pictures offered by any distributor so elects within a reasonable time prior to the date fixed for exhibition of any picture included in such block, such exhibitor may refuse to take such picture by paying one-half of the allocated price thereof, provided that the pictures so rejected out of any block shall not exceed 10 per cent of the number included in such block, and if a rejected picture is resold by the distributor, one-half of the net price received on such resale shall be credited against the exhibitor's obligation in respect of such picture up to the amount of such obligation.

5. Reissues will not be included in any block with new pictures.

6. News reels and short subjects will not be included in any block with features, and the lease of news reels or short subject blocks shall not be required as a condition of being permitted to lease feature blocks or vice versa.

7. The matters dealt with by paragraphs 3 and 4 shall be covered by appropriate provisions to be included in the new standard form of contract.

GROUP III

The resolution appearing under this group was disapproved by the commission as being illegal and in restraint of trade.

EXHIBITORS' RESOLUTION No. 1

Resolved, That the practice of distributors contracting for the exhibition of motion pictures known in the trade as "entertainment," as distinguished from educational or scientific pictures, at schools or churches or any other places where motion pictures are shown to the public, found by an impartial arbitration body to be in competition with any regularly operated motion-picture theater, is an unfair trade practice.

GROUP IV

The vote of the industry on resolutions appearing in this group clearly indicates that the industry was hopelessly divided and that conference had not resulted in an agreement to change their respective attitudes toward the subjects covered. On all other resolutions there was unanimous agreement.

EXHIBITORS' RESOLUTION No. 5

(Substitute for exhibitors' Resolution No. 2)

Resolved, That the building, buying, leasing, or otherwise acquiring, or threatening so to do, of any theater building or buildings, or theater or theaters, for the purpose and with the intent, or with the effect, of intimidating or coercing an exhibitor or exhibitors of motion-picture films to lease or book and exhibit motion-picture films produced or offered for lease or leased by a producer or distributor, or for the purpose and with the intent, or with the effect, of intimidating or coercing an exhibitor or exhibitors of motion-picture films to surrender his theater holdings, either in whole or in part, is an unfair trade practice.

EXHIBITORS' RESOLUTIONS NOS. 3-A AND 3-B

(Substitutes for exhibitors' Resolution No. 3)

RESOLUTION 3-A

Resolved, That the allocation, leasing or licensing of films by a distributor to any group of exhibitors without affording all competing exhibitors an equal opportunity to bid for such films shall be deemed unfair practice, provided this shall not apply to wholly owned producer theaters.

RESOLUTION 3-B

Resolved, That the granting of protection with the leasing or licensing of a film, over a theater which is not in competition with the theater so licensed, is an unfair trade practice.

EXHIBITOR'S RESOLUTION No. 8

This is a companion resolution to exhibitors' Resolution No. 3-b.

Resolved, That the refusal of a distributor to lease a photoplay or photoplays to an exhibitor for exhibition within a reasonable time after its prior run, shall be considered an unfair trade practice.

(Vote sharply divided—distributors and affiliated group opposed and un-affiliated exhibitors in favor of the measure.)

By reason of the extent and importance of the industry, the report of the presiding commissioner and the report of the director of trade practice conferences containing an analysis of the proceedings, a brief description of the plan used in selecting delegates, the organization of the conference, and the viewpoints as expressed at the conference by different interests follow.

By the commission:

OTIS B. JOHNSON,
Secretary.

MEMORANDUM TO THE COMMISSION

By ABRAM F. MYERS, Commissioner

FEBRUARY 28, 1928.

As reported orally at the table, submission of a report covering this conference held in New York last October has been delayed from time to time pending correction of the record, consideration of protests, and outcome of the recent meeting to negotiate a new standard contract.

I earnestly hoped the conference would result in an agreement which would meet the commission's views with regard to block booking. A pledge was made by the distributors (it can not be regarded as a formal resolution of the conference), which modifies the practice in certain particulars, but this can not be accepted as a compliance with the order in the Famous Players-Lasky case.

The position of the commission in that case, as I understand it, is that block booking is in and of itself unlawful. That being true, no resolution which recognizes the legality and propriety of the practice, and contemplates its continued observance by the distributors, can be accepted as a compliance with the order as dispensing with the necessity for proceedings against the other distributors employing the practice.

In general, I approve the report by Mr. Flannery but do not think the commission should further postpone action to enforce the order in the Famous Players-Lasky case. Also, I think the commission should at once proceed against the other great distributors, since it is hardly fair to pursue only the Famous Players-Lasky Co. when its competitors are doing the same thing.

Attached hereto is a petition by the several distributors to postpone further proceedings in the matter of block booking until a thorough test has been made under the modifications undertaken by the distributors at the conference. This petition is entitled to consideration, although, as I have said, I personally do not favor further delay in the matter.

I agree with Mr. Flannery regarding exhibitors' Resolution No. 1, which disposes of the protests received from Mr. L. H. Wentz, of Ponca City, Okla.

In conclusion I recommend:

(1) That the report by Mr. Flannery covering the conference be adopted.

(2) That the Famous Players-Lasky Co. be notified that its report of compliance is disapproved.

(3) That the other distributors practicing block booking be cited before the board of review to show cause, if any they have, why complaints should not issue against them.

Respectfully,

ABRAM F. MYERS,
Commissioner in Charge.

REPORT OF DIRECTOR OF TRADE PRACTICE CONFERENCES, TRADE PRACTICE CONFERENCE MOTION-PICTURE INDUSTRY

(Held in the assembly room of the Bar Association of the City of New York,
October 10 to 15, 1927)

SUMMARY

The three branches of the motion-picture industry unanimously adopted 26 rules of business conduct governing the production, distribution, and exhibition of motion pictures. Agreement between these three branches was reached on all matters of importance except three, and it appears that one or more of these might have been disposed of if delegates representing independent exhibitors could have continued in conference a day or two longer. Many of these delegates were compelled to return to their respective places of business at the end of one week, and although the conference by the end of the second day was efficiently organized into groups, subdivided into committees, and coordinated through joint-group committees, the various subjects proposed for discussion as expressed in 37 different resolutions could hardly be expected to be weighed, analyzed, digested, and agreed upon within four or five days' time. This notwithstanding that the committee work was carried on until late at night. But there is evidence of a new and better spirit within the industry. The full degree of accomplishment can not be gauged by the bare recorded action. This, it would seem, can be truly appraised by what is done in actual practice during the next 6 or 12 months, and in no other way.

The task undertaken by the commission in this conference was colossal. The net results accomplished may not be all that might have been hoped for by the commission, but they exceeded greatly the expectations of exhibitors, distributors, and producers, as judged by their generally expressed preconference predictions and by their later comments as to what the conference accomplished, as reflected verbally, in correspondence, and by the press.

This task is by no means complete. It has but begun. The members of the different branches of the industry have barely become acquainted. Heretofore they have dealt at arm's length, largely through agents. Never before had the four branches of the motion-picture industry met and mutually discussed their problems. To discuss them fully, frankly, and fearlessly, under the auspices of an

impartial, official, disinterested body, was indeed novel, and for this the independent exhibitors were not fully prepared. They lacked previous organization and sufficient time within which to formulate resolutions in language which could always be accepted by the producer-distributor-affiliated group.

This result of unavoidable inadequacy of time is clearly illustrated in the transcript of the closing session, wherein it is shown that the producer-distributor group reiterated its previously expressed agreement with the principle of prohibiting producers and distributors from acquiring theaters for the purpose of coercing exhibitors to buy films or to dispose of their theater holdings, but objected to the wording of the resolution (exhibitors' substitute Resolution No. 5) intended to condemn this practice.

That neither side was fully prepared for final action on this important matter, which deals with the practice prohibited by the third paragraph of the order in the Famous Players-Lasky case, is shown by the fact that the amendment to this resolution, upon which a vote had been called for, was not available. (Tr. p. 393.) The presiding commissioner, in view of the closing hours of the conference, invited the producer-distributor group to "indicate to the commission in the proper way, later on, how they felt about the substance of the substitute, or the original, or the amendment." (Tr. p. 395.) The amendment does not appear to be of record, and this may account for the fact that no such statement has been received by this division. It may be, however, that the matter in question is covered in a broad general sense by the first paragraph of the "Statement of policy," which specifically states that "the sales method known as block booking shall not be used for the accomplishment of any illegal purpose," as the carrying out of the practice in question would seem to be an illegal use of block booking.

The opportunity for further future accomplishment by the trade practice conference procedure, in adjusting between these groups the few remaining matters upon which they as groups failed to agree, is strongly indicated by the fact, among others, that the heretofore inadequately organized unaffiliated or independent exhibitors now regard themselves as having been organized by the Federal Trade Commission, and, as expressed after the conference by the secretary selected by the unaffiliated group, they expect to continue this organization which was "in a way created of, for, and by the Government." The secretary further stated:

We now have a rather unique set-up in our exhibitor organization. The conference created a national body of unaffiliated exhibitors. The Motion Picture Theater Owners of America, in their recent convention at Columbus, Ohio, changed their membership to include the affiliated, or "circuits" as they were

then called. We, therefore, now have two national organizations with different functions, namely, the Motion Picture Theater Owners of America functions on questions affecting all theaters, such as local legislation, fire prevention, and other obvious things; the unaffiliated exhibitors' organization functions on all questions of unfair trade practices between themselves and other branches of the industry.

* * * * *
Mr. Peter Woodhull is national chairman of both organizations. This is quite all right and it will be Mr. Woodhull's duty to "hew to the line."

The unaffiliated exhibitors, to maintain their rights, hopes, and purposes, must always insist that no one who is affiliated shall have voice, vote, or proxy in any action of the unaffiliated exhibitors of the United States.

As further illustrating what might be accomplished by a trial period during which actual practices in the industry can be observed, Mr. Brylawski, of Washington, D. C., who operates both as an independent and as an affiliated exhibitor, states that since the conference he has purchased for his independent houses as low as 50 per cent of a block of pictures offered by concerns which have upheld the sales system of block booking.

In other words, if the methods complained of are adjusted in actual practice, or partially so, a second conference at an appropriate time would no doubt be of the greatest benefit.

Among the chief results of the conference, with reference to the matters which most vitally concern independent exhibitors, are:

(A) A modification in five important particulars of the sales plan known as block booking. These modifications consist—

(1) In the abandonment, by producers and distributors of the compulsory double and triple block booking, of the most vicious feature of this system—namely, compelling exhibitors to buy not only the block of one producer, but the blocks of two or three producers.

(2) In entirely divorcing "news reels" and "short subjects" from all blocks of feature pictures.

(3) In relieving exhibitors from paying for pictures which, by reason of religious or racial features, are objectionable to their audiences, although such pictures have been contracted for and delivered.

(4) In allowing exhibitors to reject 10 per cent of the number of pictures which have been purchased in any block.

(5) In eliminating the practice which formerly included reissues with new pictures.

These modifications seem to eliminate the compulsory features of block booking, except that the exhibitor may be compelled to take 90 per cent or none of the block offered.

In view of the statement of record, however, made on behalf of the producer-distributor groups but not included in the agreed statement of policy, nor in any resolution, namely:

The distributors will not object to pricing pictures individually, or negotiating with exhibitors of their own free will on the basis of less than a block of pictures, but we want to be the final judges as to whether or not we shall accept such propositions.

If this is reasonably and equitably carried out in practice, block booking will have lost its horrors. The actual practices of the industry will be watched by this division during the next 12 months.

(B) The provision for machinery whereby the present uniform standard contract is to be revised or rewritten, and which should assure to the independent exhibitor fair and equitable dealing.

Other matters of importance to the independent exhibitors upon which agreement by the groups failed are:

1. An equal opportunity to bid for all pictures.
2. Relief from what is known as "protection," which consists in requiring an unreasonable length of time to elapse after the first showing before subsequent showings are permitted.
3. Relief from producers acquiring, or threatening to acquire, theaters, in order to coerce exhibitors to lease pictures or to surrender theater holdings.

(The producer-distributor group agreed to the principle but objected to the wording of the resolution concerning this practice 3.)

Matters of particular interest to distributors upon which all branches of the industry agreed, were: Condemnation by resolution of coercive block booking; fake motion-picture schemes, and other dishonest enterprises which traffic upon certain portions of the public interested in the motion-picture industry; the use of misleading and salacious advertising; violation of fire regulations; the transferring of titles to theaters without proper provision relating to existing contracts; the bicycling of films; delaying shipment of films; commercial bribery; the use of films at a theater other than the theaters specified in the contract; failure to report promptly percentage bookings; agreements among distributors to exact higher rental values than can be obtained in open competition, and the use of buying power by the exhibitor to buy more films than can be used, for the purpose of obtaining a corner, or to force a competing exhibitor out of business, or to force him to sell his theater.

In addition to the statement of policy previously referred to, as offered by the producer-distributor groups and accepted by the independent exhibitors, and which provides for certain modifications of block booking, the producer group presented seven resolutions which were unanimously adopted by the conference.

These resolutions are restatements of rules previously worked out and adopted by the Motion Picture Producers and Distributors of America (Inc.). They were designed to maintain the highest moral standard in the production of pictures. They provided formulae for the selection and rejection of story material, for the prevention of deceptive titles and salacious advertising, for prevention of duplication and confusion with reference to titles, and to guard against the inducement of breach of contract. They also protect employees known as "extras" from unscrupulous employment agencies, provide better conditions generally under which they work, and prohibit improper exploitation of children employed in the motion-picture industry.

Agreement among the groups on some of the many subjects covered seems remarkable when it is considered that many of the unaffiliated delegates were entirely unknown to one another, no confidential relations existed between them, and they appeared to be doubtful and distrustful of one another as well as of the other groups. Some of the problems arising within this comparatively new industry were exceedingly complex, and branches of a single industry could hardly be conceived as farther apart in their objects and opinions than were the unaffiliated exhibitors and the other groups. This was freely remarked prior to and at the commencement of the conference, but a feeling of growing confidence became apparent early in the proceedings, which increased and strengthened as the conference progressed, and a disposition became manifest by all the various groups to try to see the other side and agree on matters in dispute.

RECOMMENDATION

It is hereby respectfully recommended:

- (a) That all resolutions unanimously adopted by the conference, except exhibitors' Resolution No. 1, be accepted and approved by the commission.
- (b) That exhibitors' Resolution No. 1 be rejected in its present form as illegal.
- (c) That exhibitors' Resolutions Nos. 2 and 5, 3-A, 3-B, and 8, upon which no agreement between groups was reached, be held in abeyance until the full effect of the trade-practice conference on the actual conduct of the industry can be determined.
- (d) That action on the statement of policy offered by the producer-distributor group and accepted by the independent-exhibitor group be held in abeyance until results can be determined from its actual effect upon the motion-picture industry.
- (e) That a trial period of 6 or 12 months after action by the commission be allowed within which to observe the workings of the

results of the conference, at the end of which time a report be made by the division of trade-practice conferences on the working of the rules, accompanied by a recommendation with reference to the advisability of calling a second conference, or with reference to such other action as conditions at that time seem to warrant the consideration of the commission.

INTRODUCTORY

After welcoming the delegates to "the most representative gathering of the moving-picture industry ever assembled," Commissioner Myers stated that in a measure the meeting was an outgrowth of the proceeding against the Famous Players-Lasky Corporation, but that in a broader sense it was a gathering of the industry for the purpose of self-regulation. "Self-regulation" the commissioner defined as a voluntary conformity to standards of fair dealings and the law, and it was explained that the policy of the commission is to encourage self-regulation of industry through trade-practice conferences wherever possible. The resulting benefits of trade-practice conferences to the public and to industry were attested by the mention of a number of successful conferences previously held and a recital of the results obtained from the trade-practice conference for correspondence schools.

The delegates were informed that the great growth of the moving-picture industry and its bearing on economic, family, and social life had made the necessity for its proper conduct a matter of the gravest public concern; that adequate and fair representation for the numerous independent exhibitors had been secured through an approved plan and confidence was expressed in the ability of the delegates to avoid selfish insistence on measures to which they were not fairly entitled and to be governed in their deliberations by a desire for fair play.

The order issued in the Famous Players-Lasky Corporation was reviewed, and it was stated that one of the main objects of the conference was to enable the industry to adopt, if possible, some arrangement regarding the marketing of films which will be in keeping with the spirit of this order, and thus make further litigation on the subject unnecessary.

While giving full recognition to the practical difficulties involved in the abandonment or modification of the block-booking system, Commissioner Myers expressed full confidence in the willingness of the conference to work out a plan which would be fair to producers and exhibitors alike.

The commissioner made it plain that the purpose of the conference was not to obtain evidence upon which to base prosecutions of com-

plaints, but to provide a forum for the full discussion of practices of the industry which may fairly be comprehended within the expression "method of competition," as used in section 5 of the Federal Trade Commission act, and to afford the industry an opportunity to work out a plan of self-regulation to be finally expressed in resolution form and presented to the full commission for consideration.

The difference between resolutions which are and those which are not approved by the commission was explained to the conferees.

In referring to the expansion by the commission of the constructive work of trade practice conferences, Commissioner Myers stated that it may well be that this procedure will play an important part in enabling American industry to withstand the increasing pressure of foreign competition.

Hon. Will H. Hays, president of the Motion Picture Producers and Distributors of America (Inc.), followed Commissioner Myers with an address in which he informed the conference that the Motion Picture Producers and Distributors of America has no authority over the business policies of its members and has no authority over such trade practices as "block booking" and "protection" although the members "separately and individually are deeply interested in these things"; that the association was organized to establish a body of business ethics and a body of trade practices to the end that its own growth might be orderly and disciplined; he expressed the belief that there are trade practices, both noncompetitive and competitive, within the industry which could be improved and suggested that the occasion challenged the best thought and the most unselfish consideration of all present to the problems at hand. In what ways, Mr. Hays asked, if any, are any prevailing trade practices of the industry out of line with its own best interest and the public interest? How and why are the different branches and factors of the industry working against each other? What will we do together properly and finally to alleviate the difficulties and establish ways of free opportunity, of sure justice and of larger service? Mr. Hays asked that the conferees find answers to the questions and that all of the time and labor expended at the conference would then be justified. He urged that the producers and distributors welcome the conference provided by the Federal Trade Commission to disclose the whole workings of the industry to strictest public scrutiny; that the meeting of responsible business men and women gathered there for a responsible purpose would develop a succession of formulae which would bring better service to the public; that every branch of the industry wants every other branch to prosper and the whole structure rests upon the favor of the public; that if the public is pleased the entire industry thrives and grows; that more than

1,000,000 people in New York and immediate vicinity every day get their relaxation and principal amusement from pictures, with 12,000,000 every day in this country alone giving a vote of confidence of the very first quality which measures exactly our duty; that, indeed, it is a vote of confidence which can not be ignored either by friends or by critics of pictures; that the public through its loyalty to its most important amusement stands ready to defend it if need be from the small minority, but that the same public, because of that same loyalty, stands ready to destroy this industry if at any time it proves false to its public trust.

Mr. Cohen delivered the keynote address for independent theater owners. The burden of this related to two subjects, namely, block booking, and the results of producers competing in the exhibition field with their own customers, namely, independent theater owners, to whom the producers supply their product. Mr. Cohen represents the extreme of independent exhibitor views. He advocates, for example, that all producers be compelled to dispose of their theaters.

Block booking, according to Mr. Cohen, "is a moot question," susceptible of several interpretations. He seemed to find it beneficial in one form, but roundly denounced it in others. Thus he stated.

The voluntary buying of a series of pictures from one manufacturer by a theater owner, to assure himself of a sufficient amount of product to keep his theater running, is entirely different from forced, coercive, or compulsory buying of the entire product of the company in order to obtain a few desired pictures, or through fear of reprisals.

Of triple compulsory block booking, the form of block booking which compels a theater owner to purchase the product of three companies, and which is alleged to be of recent origin, Mr. Cohen said:

Take for instance, a small town of perhaps 2,000 inhabitants, whose theater owner and whose picture-goers have the selection of the entire film market open to them. Think of their being compelled to purchase the product of three companies—Famous Players-Lasky, Metro-Goldwyn-Mayer, and United Artists, working together through relationship and intermarriage—the entire product of these three companies being purchased under compulsory and coercive methods, for unless you take all three you do not get any, and this completely fills the theater's playing time. Thus the people of any such town or community are denied the opportunity of seeing the worthwhile pictures of other producing organizations. * * * If any one of these three companies have their own theater in the section they withhold even offering their combined product to any other theater owner in the section; otherwise they will attempt to force the theater-owner to play *all* of the pictures of the three companies above mentioned.

With reference to the second subject, considered by Mr. Cohen to be the most vital problem confronting the industry, he stated that 90 per cent of the "neighborhood houses" (theaters other than those

located in business or theater sections of cities) are independently owned; that most of these are unfairly treated by producers, in that they are denied a fair division of product; that producers build, own, and operate theaters, which fact places producers in competition in the exhibition field with their own customers, the independently owned theaters; that these producer-owned or affiliated theaters receive preferential treatment in the matter of securing film privileges; that the number of these producer-owned theaters is increasing; and that the most representative "neighborhood houses" are made to suffer a severe handicap by reason of such preferential treatment, utterly unreasonable "protection" accorded inferior houses in the same locality but belonging to the producers; and that if this continues it will force other producers to enter the exhibition field and to almost completely annihilate the business of independent theaters; that this condition jeopardizes investment in independently owned houses and will result in control of the industry by a few producers and in higher prices to the public.

The remedy suggested by Mr. Cohen was to compel the producers to dispose of their theaters.

ORIGIN, ORGANIZATION, AND CONDUCT OF THE CONFERENCE

This conference, suggested in the brief of Attorney Martin A. Morrison in support of the complaint in the Famous Players-Lasky Corporation, Docket 833, was initiated by the commission July 8, 1927. The investigation by the division of trade practice conferences was begun July 12, completed August 11, 1927, and reported to the commission on the latter date. On September 13 the conference was authorized to be held within the 30 days following.

Practically 100 per cent of those engaged in the production, distribution, and exhibition of motion pictures were represented at this conference, which convened October 10, 1927, in the assembly room of the Bar Association of the City of New York, and which adjourned October 15, 1927.

The commission was represented by Commissioner Abram F. Myers, assisted by M. Markham Flannery, director of trade practice conferences, and Messrs. S. D. Mayers and Charles M. Brown. Stenographic assistance in addition to the official reporter was furnished by the commission's New York branch office.

The arrangements for the conference were complete. The entire second floor of the Bar Association's building was given over during the week for conference purposes. A room was assigned for the use of the commissioner and three other rooms were used as committee rooms for the several branches of the industry; a fourth room was provided for representatives of the press, of which there were about

15 members present during each day of the conference. These appropriately appointed quarters were quite in keeping with the dignity and importance of the occasion and formed a striking contrast to the inappropriate quarters frequently furnished for governmental functions.

The producers, distributors, and affiliated exhibitors were highly organized, and satisfactory representation thereof was readily and easily obtained. The independent or unaffiliated exhibitors, some 20,000 in number, were not organized so as to conveniently afford adequate and fair representation. For this purpose, however, the plan submitted to and approved by the commission was put into effect, to the ultimate satisfaction of all concerned. A full description of this plan, together with a description of the organizations, divisions, and subdivisions of the industry, was submitted to the commission in a report by this division under date of August 11, 1927.

Briefly, this plan provided that two delegates be selected from each of the 32 geographical zones into which the moving-picture industry in the United States had been divided for commercial purposes; such delegates representing each zone, respectively, were selected by the three exhibitor members of the arbitration board, working in conjunction with the local exhibitors' organization, if any. Neither delegate was to have any affiliation whatever with producers or distributors. One such delegate represented chains of theaters consisting of groups of five or more, and the other was selected among owners of but one theater or less than five.

The producers were represented by 43 delegates; the distributors were represented by 25 delegates in person, and all other independent or original distributor members of the 32 film boards of trade were represented by proxy and power of attorney by C. C. Pettijohn; the affiliated exhibitors were represented by 59 delegates and the unaffiliated exhibitors were represented by 66 delegates, 2 each from the 32 zones and 2 in addition from New Jersey, whose exhibitors felt that they were denied representation and applied to the commission for permission to send delegates, which request was granted by the commission and the appointments confirmed by the delegates from the 32 zones.

The size and character of the conference required that the assembly room be divided into six areas, each of which was taped off and placarded; four were reserved for the respective delegations; one for the 21 different associations and societies, civil, religious, educational, advertising, and others, which were represented, and the remaining space was used for the public generally. At each day's session of the general conference all seats, about 250 in number, were taken, and frequently many were compelled to stand.

Due to the fact that the discussions of some practices were of interest to particular groups only, that others affected two or more of the groups, while still others affected the entire industry, Commissioner Myers organized the conference into separate branches, permitting each branch to elect its own chairman and secretary. The meeting of the whole conference was then adjourned to convene at a designated hour for the purpose of allowing the several groups to retire to their respective rooms for the discussion of various problems from their own viewpoint, each to agree among themselves upon the action to be taken as a group.

At the hour set for the reconvening of the entire conference the chairman of each group reported such progress as had been made and offered any resolutions which had been agreed upon in the group meeting. This, however, did not bar any member of the conference from freely expressing his views. The resolutions as presented by the respective chairmen were debated and, in the absence of objection, were received as resolutions of the conference. If objected to by any member either of the group reporting or of other groups, a vote was taken, or the matter was referred to a joint committee, or referred back to the group meeting for further consideration.

The organizations of the various groups were as follows:

Producers' group.—Louis B. Mayer, chairman; Richard A. Rowland, vice chairman.

Distributors' group.—R. H. Cochrane, chairman; Sidney R. Kent, vice chairman.

Affiliated theaters.—Fred Desberg, chairman; Harry M. Crandall, vice chairman; Leopold Friedman, secretary.

Conference committee.—Sidney R. Kent, James R. Grainger, J. Robert Rubin, S. F. Hartman, Fred Desberg, Edward Schiller, Harold B. Franklin.

Contract committee.—Distributors: Felix Feist, James R. Grainger, Phil Reisman. Affiliated exhibitors: Fred Desberg, Harold B. Franklin, Edward Schiller.

UNAFFILIATED EXHIBITORS' NATIONAL COMMITTEE

Established New York City, October 10, 1927, consisting of 66 delegates selected from 33 distributing centers of the United States.

OFFICERS AND COMMITTEES ELECTED—RULES ESTABLISHED

Chairman.—Peter Woodhull, New Jersey.

Secretary.—Frank J. Rembusch, Indiana.

Credentialed committee.—Jules Michael, Buffalo, chairman; Joseph Walsh, Connecticut; Ben Bernstein, Los Angeles.

Rule adopted: Delegates eligible to voice or vote must answer "Yes" to question 1, and "No" to questions 2 and 3.

Question 1. Do you own any theaters?

Question 2. Has any distributor or producer any affiliation in your theater or own any stock in same?

Question 3. Did you own any stock in any film-producing or distributing company?

Resolution committee.—Harry Suchman, New York, chairman; Charles Picquet, North Carolina; Sid Samuelson, New Jersey; Sam H. Boriskey, Chattanooga; James C. Ritter, Detroit; A. C. Gutenberg, Milwaukee; Henry Lustig, Cleveland.

Rule adopted: All motions must be presented by resolutions—first presented to resolution committee for passage, after which they are presented to full committee for final action.

Advisory committee.—James Ritter, Michigan, chairman; Joseph Seider, New Jersey; J. J. Harwood, Cleveland; J. Arthur Hirsch, New York.

Rule adopted: Advisory committee to advise and guide acts of national chairman; to call meetings of the special committees or to call conventions of the entire delegate committee when necessary; to function as the executive head of the unaffiliated organization.

Block booking committee.—Charles O'Reilly, New York, chairman; R. R. Biechle, Kansas City, Kans.; Nathan Yamins, Fall River, Mass.; N. B. Bernstein, Los Angeles; Jack Miller, Chicago.

Rule adopted: To confer with producers for a solution of block booking.

Contract committee.—R. R. Biechle, Kansas City, chairman; Ben Bernstein, Los Angeles; Nathan Yamins, Fall River, Mass.

Alternates.—J. L. Rome, Baltimore, Md.; H. A. Cole, Marshall, Tex.; Joseph Walsh, Hartford, Conn.

Secretary to committee.—H. M. Richey, Michigan.

Rule adopted: To meet with contract committee of producers as soon as possible and create a new and more equitable standard exhibition contract.

Rule adopted: All committees are in position to function at any time. The entire committee may be called together at any time for another convention by the advisory committee or by a call of the Federal Trade Commission.

The producers, distributors, exhibitors, and representatives of the public group affiliations represented at the conference were, according to roll call, as follows:

PRODUCERS

Asher, Small & Rogers (Inc.), F. W. Beetsen, proxy.
 Bray Productions (Inc.), proxy absent.
 Chadwick Productions, Harry Thomas.
 Christie Film Co. (Inc.), F. W. Beetsen, proxy.
 Cecil B. de Mille Pictures Corporation, John C. Flynn.
 Distinctive Pictures Corporation, absent.
 Eastman Kodak Co., Eugene Crystal.
 Educational Film Exchanges (Inc.), E. W. Hammons.
 Fairbanks Productions, Dennis O'Brien.
 F. B. O. Pictures Corporation, J. P. Kennedy and Joseph Schnitzer.
 First National Pictures (Inc.), R. A. Rowland, Samuel Spring, C. B. Hawley, E. P. Deplinet.
 Fox Film Corporation, J. R. Grainger, Percy Hellinger.
 Samuel Goldwyn (Inc.), F. W. Beetsen, proxy.
 D. W. Griffith (Inc.), D. W. Griffith, Arthur Kelley.
 Inspiration Pictures (Inc.), F. W. Beetsen, proxy.
 Kane Productions (Inc.), F. W. Beetsen, proxy.
 Buster Keaton Productions, Joseph M. Schenck, Dennis O'Brien.
 Kinogram Publishing Corp., Capt. G. L. McBain.
 Harold Lloyd Corporation, F. W. Beetsen, proxy.

Metro-Goldwyn-Mayer Distributing Corporation, J. R. Rubin, Nicholas M. Schenck, Felix Feist, Louis B. Mayer.

Metropolitan Dist. Corporation, F. W. Beetsen, proxy.

Paramount Famous-Lasky Corporation, S. R. Kent, E. J. Ludwig, Ralph A. Kohn.

Principal Pictures Corporation, Irving Lesser.

Producers Distributing Corporation, Philip Reisman, John C. Flynn.

Pathé Exchange (Inc.), Elmer Pearson, Louis Innerarity.

Hal Roach Studios, F. W. Beetsen, proxy.

Sam E. Rork (Inc.), F. W. Beetsen, proxy.

Joseph M. Schenck Productions (Inc.), Joseph M. Schenck, Arthur Kelley, Dennis O'Brien.

Mack Sennett (Inc.), F. W. Beetsen, proxy.

Gloria Swanson Productions, H. A. Moore.

Talmadge Producing Corporation, Joseph M. Schenck, Dennis O'Brien.

United Artists Corporation, Al Lichtman, Joseph M. Schenck, Dennis O'Brien.

Universal Pictures Corporation, R. H. Cochrane, L. B. Metzger, S. F. Hartman.

Vitagraph (Inc.), Sam Morris and H. L. Beresford.

Warner Bros. Pictures (Inc.), Sam Morris and H. L. Beresford.

Jack White Comedy Corporation, F. W. Beetsen, proxy.

Chas. Chaplin Corporation, Arthur Kelley.

LIST OF DISTRIBUTORS

Capitol Exchange, Herman Gluckman.

Commonwealth Film Corporation, Samuel Zierler.

Educational Film Exchanges, E. W. Hammons and C. E. Catlin.

F. B. O. Pictures Corporation, J. P. Kennedy and Joseph Schnitzer.

Fox Film Corporation, J. R. Grainger and Percy Hellinger.

First Division Pictures Exchange, Harry Thomas.

First National Pictures Corporation, E. P. Deplinet and Samuel Spring.

Aywon Pictures, Melvin Hirsch.

Lumas Pictures Corporation, B. A. Rogers.

Montague & McConville, absent.

Metro-Goldwyn-Mayer Distributing Corporation, Felix Feist and J. R. Rubin.

Pathé Exchange (Inc.), Elmer Pearson and Louis Innerarity.

Producers Distributing Corporation, Phil. Reisman and John C. Flynn.

Merit Film Corporation, Harry Thomas.

Hollywood Pictures (Inc.), Jack Bellman.

Gotham Productions (Inc.), B. A. Rogers.

Masterpiece Productions, Ben Amsterdam.

Columbia Pictures Corporation, Jack Cohn and S. K. Brandon.

Tiffany Productions, M. H. Hoffman and Ed. Smith.

Paramount Famous-Lasky Corporation, S. R. Kent and E. J. Ludwig.

Universal Film Exchange, L. B. Metzger and S. T. Hartman.

Warner Bros. Pictures (Inc.), Sam Morris and H. L. Beresford.

United Artists Corporation, Al. Lichtman and Dennis O'Brien.

Vitagraph (Inc.), Sam Morris and H. L. Beresford.

De Luxe Film Exchange, Oscar Neufeld.

All other independent or regional distributors, members of the 32 film boards of trade, represented by proxy and power of attorney, by C. C. Pettijohn.

AFFILIATED EXHIBITORS

J. H. MacFarland, Griffith Amusement Corporation.
 F. L. Senff, Rickerts & Nace Amusement Enterprises (Inc.).
 Wesley E. Synder, Naborhood Theaters Corporation.
 Dan Michaeloff, Universal Chain Theaters Corporation.
 Meyer Schine, Schine Theaters.
 Max Balaban, Balaban & Katz.
 Ed. Sonnensheim, Lubliner & Trintz.
 A. C. Keough, Shea Operating Corporation, Paramount Enterprises (Inc.),
 Maine & New Hampshire Theaters (Inc.).
 F. L. Metzler, A. H. Blank Theaters Corporation, Consolidated Amusements
 (Inc.), Savannah Theaters Corporation.
 Spiros Skouros, Skouros Super-Theaters Corporation.
 Floyd Brockell, Great States Theaters.
 Marion Coles, E. J. Sparks Enterprises (Inc.), W. S. Butterfield Theaters
 (Inc.), Butterfield & Butterfield Theaters Co.
 Paul Raibourn, Publix Theaters.
 L. M. Ash, Jefferson Amusement Co., Dent Theaters (Inc.).
 Maurice Goodman and Martin King, B. F. Keith Corporation, Orpheum
 Circuit.
 Wm. S. Hart, F. F. Proctor Circuit.
 D. A. Harris, Harris Amusement Co.
 Leopold Friedman and Edward A. Schiller, Loew's (Inc.).
 Fred Desberg, Loew's Ohio Theaters.
 H. B. Franklin, West Coast Theaters.
 Elihu Root, Jr., West Coast Theaters of Northern California.
 Frank Wilson and George Murphy, Pacific Northwest Theaters.
 ——— Hindler, Franc Amusement Co.
 John Dillon, Hollywood Theaters (Inc.).
 A. G. Thurman, West Coast California Theaters.
 H. M. Crandall and Louis Sablosky, Stanley Co.
 George A. Pettinger, Syracuse Strand Theater.
 M. A. Silver, Strand Theater Co. of New England.
 J. M. Levenson, Stanley-Mark-Strand.
 Sidney Jacobs, Stanley-Effinger Co.
 Jacob Fox, Stanley-Fox Theater Co.
 Nathan Stiefel, Stanley-Stiefel Co.
 J. K. Kirner and Mr. Myers, Stanley Shapito Theater Co.
 Earl Forte, Nixon-Nirdlinger Co.
 Samuel Blaskey, Cosmos Theater Co.
 Jack Frere, West Chester Amusement Co.
 Alexis Carlin, Atlantic City Vaudeville Co.
 J. H. McCarron, Garden Pier Theater Co.
 Chas. Thomson, Sylvania Amusement Co.
 Alex Myers, Agonz Theater Co.
 Joseph Stein, Stanley Fabian Corporation.
 Samuel Rosen, Montclair Amusement Co.
 W. C. Delaney for Henry Hecht, Lincoln Amusement Co., Bergen County
 Amusement Co.
 S. Perlman for A. Dowllinger, Ritz Theater, Newark.
 S. Braskin, Continental Amusement Co.
 H. W. Dewsnap, Consolidated Amusement Co.
 Louis Sablosky, Crandall-Stanley Theaters.

Marcus A. Benn, Marcus A. Benn.
 Morris Spiers, Morris Spiers.
 Joseph Jordan, Joseph Snellenberg.
 Sidney Jacobs, David Bortin.
 H. D. Buckley, United Artists Theater Circuit.
 Charles Levine, Roxy Theaters Corporation.
 Percy Hellinger, Fox Theaters Corporation.

UNAFFILIATED EXHIBITORS (FROM THE 32 ZONES)

Albany, L. A. Buettner, Choes, N. Y.; Meyer Schine, Gloversville, N. Y.
 Atlanta, S. H. Borisky, Chattanooga, Tenn.
 Boston, Stanley Sumner, Cambridge, Mass.; Nathan Yamin, Fall River, Mass.
 Buffalo, Jules Michaels and A. C. Hayman (Sidney Pfeiffer, attorney, Buffalo,
 by proxy representing all).
 Butte, Mont., absent.
 Charlotte, N. C., Chas. W. Picquet, Pinehurst, N. C.
 Chicago, Ludwig Siegel, Chicago; Jack Miller, Chicago.
 Cincinnati, A. Hettseheimer, Cincinnati.
 Cleveland, J. J. Harwood, Cleveland; H. H. Lustig, Cleveland.
 Dallas, H. A. Cole, Dallas; Sam Heffey, Cameron, Tex.
 Denver, E. A. Bishop, Denver; Max Shubach, Denver.
 Des Moines, E. P. Smith, Fort Dodge, Iowa; Harry M. Weinberg, Des Moines.
 Detroit, James C. Ritter, Detroit; Glenn A. Cross, Battle Creek, Mich.
 Indianapolis, Billy Connors, Marion, Ind.; Frank J. Rembusch, Indianapolis.
 Kansas City, Mo., R. R. Biechele, Kansas City, Kans.; A. F. Baker, Kansas
 City, Kans.
 Los Angeles, N. B. Bernstein, president M. P. T. O., Los Angeles.
 Memphis-Little Rock, Cecil W. Cupp, Arkadelphia, Ark.
 Milwaukee, A. C. Gutenberg, S. Bauer, Milwaukee.
 Minneapolis, absent.
 New Haven, J. W. Walsh, Hartford, Conn.; Joseph L. Shulman, Hartford,
 Conn.
 New Orleans, D. L. Suddath, Natchitoches, La.; C. J. Goodwin, Bastrop, La.
 New Jersey, Sidney Samuelson, Newton, N. J.; Joe Seider, Hightstown,
 N. J.
 New York, J. Arthur Hirsch, New York City; Harry Suchman, New York
 City.
 Oklahoma City, E. W. Johnson, Tulsa; F. B. Pickrel, Ponca City, Okla.
 Omaha, C. E. Williams, Omaha; H. F. Kennedy, Broken Bow, Nebr.
 Philadelphia, E. J. Goldman, Philadelphia; Lewen Pizor, Philadelphia.
 Pittsburgh, Nathan Friedberg, Pittsburgh; Anthony P. Jim, Pittsburgh.
 Portland, Oreg., G. T. Woodlaw, Portland.
 St. Louis, Oscar C. Lehr, St. Louis; Fred Wehrenberg, St. Louis.
 Salt Lake City, proxy held by R. F. Woodlull.
 San Francisco, Morris Gallos, San Francisco; Charles Michaels, San Fran-
 cisco.
 Seattle, Ray A. Grombacher, Spokane, Wash.; J. M. Hone, Seattle.
 Washington, D. C., Herman Blum, Baltimore; J. Louis Rome, Baltimore.

PUBLIC GROUP AFFILIATIONS—CIVIC, EDUCATIONAL, RELIGIOUS, ETC., MADE AFTER
 OCTOBER 10

Rev. Harry S. Myers, secretary moving pictures, Northern Baptists' Con-
 vention, Board of Missionary Cooperation, 276 Fifth Avenue, New York City.

Mrs. Eva J. Boh, International Federation of Catholic Alumnae (care of Mrs. McGoldrick).

Mr. Lee F. Hamner, director of recreation, Russell Sage Foundation, 130 East Twenty-second Street, New York City.

Mrs. Harry Lilly, director of public relations, Outdoor Advertising Industry Association, 101 West Ninety-third Street, New York City.

Mrs. Lillian Sire, president National Women's Democratic Club (Inc.), Hotel White, New York City.

Miss Edna Wakefield, New York, County Chapter American Red Cross, New York County Chapter.

Mrs. Joseph Kendrick Butler, state chairman better films, Daughters of American Revolution, 28 Lefferts Place, Brooklyn, N. Y.

Mrs. F. H. Handsfield, Rockville Center Women's Club, Long Island Federation of Women's Clubs, Rockville Center, L. I.

Mrs. Charles T. Owens, Civic Club of Norristown, Norristown, Pa.

Mrs. J. A. Selden, chairman, selected performances, Macon Better Films Committee, Macon, Ga.

Mrs. Belle Harlan, League for Protection of Riverside Drive, and the Theatre Club (Inc.).

Dr. Christian F. Reisner, pastor Chelsea M. E. Church, president Broadway Tabernacle Corporation.

Dr. A. Rose, Universal Church, Newark, N. J.

Rev. George Reid Andrews, director, Church and Drama Association, Federal Council of Churches, 105 East Twenty-second Street, New York, N. Y.

Rev. Leland P. Cary, pastor Jackson Heights Community Church.

Rev. James Yard, representative of West China University in United States, M. E. Missionary Board.

M. E. Head, director United States Veterans' Bureau, second coordination area.

Dr. Robert Hill, Council for the Adult Education of the Foreign Born.

Mr. John R. Norton, research director, National Educational Association, Washington, D. C.

Mrs. H. S. Brancher, secretary, Playground and Recreation Association of America.

Miss Marella Freeman, Cleveland, Ohio, representing American Library Association.

At the request of Commissioner Myers, certain statistical data was furnished by members of the conference, and this appears in the transcript of record, beginning at page 402, and consists of a statement of the number of pictures (1) produced, and (2) distributed (released) by educational organizations for seasons 1926-27 and 1927-28, and certain statistics relating to releases of motion picture distributing companies for 1925-26, beginning at page 403.

EXHIBITORS' RESOLUTIONS

Among the matters complained of by exhibitors was a species of intermediate or sporadic competition from two sources. The first consists in the occasional exhibition given by churches, schools, and like institutions, at which the public is admitted and an admission

fee charged, but for which no tax is paid. The other is competition from producers who, under certain circumstances and from time to time, exhibit their productions for purely coercive purposes.

Exhibitors' Resolution No. 1.—The competition from schools, churches, and like institutions is sought to be eliminated by exhibitors' Resolution No. 1, which, as amended and finally passed, is intended to prohibit producers from contracting for the exhibition of pictures at any place where motion pictures are shown to the public, if such exhibition is found to be in competition with a regularly operated motion-picture theater. The question of whether such exhibition does so compete is to be determined by arbitration. Educational and scientific films are specifically exempted. From the record it appears that films of the kind in question are sold to such tax-free institutions at prices less than those charged to established theaters.

The wording of the resolution is not as clear as it should be. The situation presented is somewhat similar to that which exists between the itinerant merchant or peddler and the established retail dealer, relief from which is sought in the various States by providing for the collection of a large license fee from itinerants.

The legality of the purpose of the resolution is questionable. It may be regarded as in restraint of trade, although the trade involved seems neither material in amount nor consequential in character. On the contrary, however, it may be legal for an industry to agree on a classification of customers. This matter, in some form, will probably be considered with the revised contract. The resolution reads as follows:

Resolved, That the practice of distributors contracting for the exhibition of motion pictures known in the trade as "entertainment," as distinguished from educational or scientific pictures, at schools or churches, or any other places where motion pictures are shown to the public, found by an impartial arbitration body to be in competition with any regularly operated motion-picture theater, is unfair trade practice.

(Adopted without objection as a resolution of the conference, p. 343.)

Exhibitors' Resolutions Nos. 2 and 5.—Exhibitors' Resolution No. 2 was intended to prevent any producer from operating motion pictures in competition with a regularly operated motion-picture theater when such is done with the intent of intimidating or coercing an exhibitor to lease, book, or exhibit the motion picture of such producer. This was at first received as a resolution of the conference without objection. (Tr. 344.) Later, however, Mr. Swaine, attorney for the Famous Players-Lasky Corporation, stated that "through a misunderstanding, exhibitors' Resolution No. 2 yesterday was

passed without objection * * * and the producer and distributor groups have prepared a substitute for exhibitors' Resolution 2 and exhibitors' Resolution 5 * * *, one resolution embodying both, and that has been submitted to the committee on behalf of the exhibitors * * * but I have not heard * * * whether that substitute resolution is satisfactory or not." (Tr. 362.)

Immediately prior to the adjournment of the conference the substitute resolution was called up. The producer-distributor group stated that it had had no time to consider this resolution, as it had been working since early morning on the block-booking problem. It was contended by the exhibitors that inasmuch as this substitute Resolution No. 5 was proposed by the producers, the producers should not object to a vote being taken.

Commissioner Myers informed the conference that 24 hours had elapsed since the substitute resolution had been drawn. Mr. Hess, for the producer-distributor group, contended that the substitute resolution had been drawn by one attorney and had not been considered by the group.

It was suggested that this matter be referred to the contract committee, not because it concerned contracts, but because that committee would continue to function and could take time to consider the wording.

Mr. Suchman (independent exhibitor) asked and was granted permission to read the resolution into the record, and the transcript shows the following:

MR. SUCHMAN. I will read the resolution. I haven't the amendment here, but I would rather do it now. May I read the Resolution No. 5?

Resolved, That the building, buying, leasing, or otherwise acquiring, or threatening so to do, of any theater building or buildings, or theater or theaters, for the purpose and with the intent, or with the effect, of intimidating or coercing an exhibitor or exhibitors of motion-picture films to lease or book and exhibit motion-picture films produced or offered for lease, or leased, by a producer or distributor, or for the purpose and with the intent, or with the effect, of intimidating or coercing an exhibitor or exhibitors of motion-picture films to surrender his theater holdings, either in whole or in part, is an unfair trade practice.

A VOICE. I move its adoption.

Motion seconded.

MR. COCHRANE. We accept the principle and the sentiment, but we reject the wording and phrasing or phraseology.

A standing vote was then taken, and while the record does not show the result, the recollection of the undersigned is that the vote was sharply divided, the independent group voting for and the producer, distributor, and affiliated groups voting against the resolution. Again, after the vote was taken, the producer-distributor and affiliated groups recorded their full approval of the principle and reaffirmed their objection to the language of the resolution. Thus:

MR. RUBIN. If the commissioner please, I would like to be recorded on behalf of the Metro-Goldwyn-Mayer Distributing Corporation as opposed to the language of the resolution. I have no quarrel with the principle.

MR. DESBREAUX. I would like to state that I heartily subscribe to the sentiment expressed therein. I can not say whether there is any basis for the objection raised by the distributing group with reference to it, because of the fact that I have not had the time nor opportunity to study it. I respect their opinions with reference to the statements that they give, to the effect that the language is objectionable from their viewpoint. I am in accord with them in the matter of the sentiment. I think it is very unfortunate that we have not had an opportunity of agreeing on this subject, and I think some measure should be provided whereby we could get the resolution spread upon the record in its final form. (Tr. 393-395.)

Exhibitors' Resolutions Nos. 3, 3-a, 3-b, and 8—Abuse of buying power—First-run privileges.—Resolutions 3-a and 3-b were passed as substitutes for resolution 3 as originally offered. There was sharp division on the final vote.

The purpose of these resolutions was to correct the alleged abuse of buying power as reflected in the undue advantages accorded affiliated exhibitors by making it impossible for independent exhibitors to secure productions on an equal rent basis. This, regardless of the independent exhibitors' willingness and ability to pay a fair and reasonable price for first runs of such productions. Inability to compete for first-run pictures is alleged to be eliminating the independent theater, with a resultant marked tendency toward monopoly.

This is regarded by the exhibitor body as the major issue of the conference and was covered in exhibitors' Resolution No. 3 as originally presented. This was unanimously rejected by the producer-distributor group, and substitutes designated No. 3-a and No. 3-b were offered. A vote taken on roll call on Resolution No. 3-a resulted in sharp division, the independent exhibitors voting for the resolution and the producer-distributor group and affiliated exhibitors voting solidly against it.

A vote on Resolution No. 3-b produced the same result, and Resolution No. 3-b was later considered in connection with exhibitors' Resolution No. 8, the vote on which likewise resulted in the same sharp division.

No agreement having been reached between independent exhibitors and the remaining branches of the industry, this question stands where it was before the holding of the conference.

The discussion on these resolutions developed the fact that the greatest value of a picture accrues in its earliest exhibitions, called "first runs"; that first-run privileges are exceedingly important, if not absolutely essential, to the first-class motion-picture theaters; that these privileges are accorded to affiliated exhibitors (theaters

operated by producers or distributors) and denied absolutely to independent exhibitors operating theaters in the localities of affiliated theaters. It was further alleged that first-run privileges formerly enjoyed by some independent exhibitors were taken away upon the establishment of affiliated theaters in the same locality. A further abuse of this power is alleged to enable affiliated exhibitors to buy the poorest of a group of independent theaters, and, by reason of their ability to secure the best pictures, to compel the remaining independents to sell or close their theaters. The independents, it is said, have the choice of closing their theaters or becoming affiliated.

The arguments against these resolutions were confined to the economies and benefits incident to quantity buying and selling and the legality thereof. The affiliated group, speaking through Mr. Kent, claimed that the resolution destroyed the right of the distributor to sell to whom he pleased in the most economical way. He claimed that under present conditions six or seven men are not required in one zone, which would be the case if exhibitors were refused the opportunity for collective buying. He believed, he said, that they have the right to select their customers or to "pick the chains" (namely, to sell to theaters grouped under a single management). He believed that they should not be compelled to make three or four hundred sales in order to dispose of a million dollars of product if the same thing could be accomplished by a few sales. He believed that the resolution, if passed, would increase selling costs "because we would have to get together all the theaters and seek bids, and in that way necessarily increase the cost." (Tr. p. 247.)

Commissioner Myers then inquired whether it was not Mr. Kent's practice, in advance of showing his product, to book that product. Mr. Kent replied: "You still have your personal negotiations. Your book does not carry places. For instance, six men want a particular picture and they enter into negotiations for it, naturally you would make your contract for the highest price." (Tr. p. 247.) "We have productions we don't care to sell on the basis of highest price and we don't want them to buy. We have accounts that have been with us ever since we have been in business and we have not sold any house against them, but we don't make them buy from us." (Tr. p. 248.)

Commissioner Myers could not get very clear answers from the affiliated groups to questions intended to ascertain whether any distinction in practice is made between selling films to affiliated theaters and to independent theaters. The record, however, seems to show that such a distinction is made in practice. In fact, the "independents of the Buffalo zone" formed an organization within the

past few weeks for the purpose of buying films collectively. The sale of motion pictures was absolutely and uniformly refused by the distributing organization, because they were a combination of independently owned houses and not a combination of affiliated houses. (Tr. p. 206.)

The independent exhibitors in the Cleveland zone had a somewhat similar experience and several individuals stated that they were deprived of the opportunity to bid on the best pictures, although they had suitable houses within which to exhibit them.

Perhaps an agreement can later be worked out on this question, but, as previously stated, the status of the matter after the conference is the same as it was before the conference was held.

Resolutions 3-A and 3-B are as follows:

No. 3-A.

Resolved, That the allocation, leasing, and licensing of films by a distributor to any group of exhibitors without affording all competing exhibitors an equal opportunity to bid for such films shall be deemed unfair practice, provided this shall not apply to wholly owned producer theaters. (Tr. p. 262.)

No. 3-B.

Resolved, That the granting of protection with the leasing or licensing of a film, over a theater which is not in competition with the theater so licensed, is an unfair trade practice.

Exhibitors' Resolution No. 4.—This resolution failed to reach a vote before the conference adjourned because of the fact that the producer group claimed to be too busy with other resolutions to give it sufficient consideration. The purpose of the resolution as originally presented was to eliminate the last vestige of block booking in any form.

The distributors' position and the lengths to which they were willing to go in this matter were stated by Mr. Kent in the following language:

We believe that there is a public interest; not to the extent that some would indicate, because we believe the public has a misconception of what block booking is. If a picture does not happen to be popular, that should not be blamed on block booking, because you get poor ones in any method. As far as the public is concerned we are willing to do this: If a picture, because of race, morality, or any other reason where a general public resentment exists—not with the idea of getting out from under a contract—the matter should go before a neutral board of arbitration, and if it is ruled the exhibitor shall not be forced to run the picture, he will be relieved of his contract. That is something we are willing to do. As far as changing the present method of wholesale selling is concerned, these distributors will not object to pricing pictures individually or negotiating with exhibitors of their own free will on the basis of less than a block of pictures. We want to be the final judges—and the loss of business would be our penalty—as to whether or not we shall accept the proposition. Further than that I can not go, because of the limitations that

have been imposed upon the profits here. We are willing to meet in conference to talk over any plan that anyone else has to suggest that may be practicable. We have not been able to find it. We believe we are within our legal right to sell as we are now selling. We have not been able to find a substitute.

It was stated by an independent exhibitor that all distributors do not agree with the thought that block booking is the only method of selling.

It was contended on behalf of the independent exhibitors that block booking is largely responsible for bringing films into disrepute with persons of taste; that one poor or unwholesome film shown in a theater for three days will be felt for three weeks afterwards in diminished attendance.

Compulsion was stated to consist in requiring exhibitors to take all films offered, or none; that the contract compels exhibitors to take the whole program; that exhibitors pay more for part time than for the whole program. An instance was cited in which one manager ran a line in his newspaper to the effect that he did not recommend his entertainment for that week to his regular patrons. A continuation of this altruistic method is preventable by provision of the uniform contract relating to general advertising. (Tr. p. 305.) It was also complained that the—

taking of any especially good picture out of a block and showing it at increased rental for road showing, under the contract clause permitting producers to make substitution in certain exigencies * * *. (Tr. pp. 305-6.)

compelled the public to pay just as much for poor film entertainment as for good.

The resolution, as amended and presented, reads as follows:

Resolved, That coercive block book (ing) is an unfair trade practice; and it is further

Resolved, That all distributors be compelled to furnish the exhibitors with the quotation on each and every picture offered for sale, with the exhibitor having the privilege of selecting any of these pictures at an agreed price. However, if the exhibitor feels that more than one, most, or all of any group of pictures are of such a quality as to be desired by the public patronizing his theater, then and in that case the distributor should be permitted to sell to said exhibitor more than one, most, or all of said group of pictures; *provided further, however*, That no inducement greater than a 10 per cent discount be allowed for such quantity sale.

The subject matter of this resolution is treated in the statement of policy offered by the producer-distributor-affiliated groups and accepted by the independent exhibitor group. Revision of the standard uniform contract is provided for in exhibitors' Resolution No. 6.

Exhibitors' Resolution No. 5.—This resolution is treated in connection with exhibitors' Resolution No. 2, and, like said Resolution No. 2, the purpose is to prohibit producers or distributors from oper-

ating theaters for compulsory purposes. After Commissioner Myers made the following statement, it was referred back to conference to be considered in connection with exhibitors' Resolution No. 2:

There was a provision in the commission's order in the Famous Players-Lasky case which I will read to you as indicating the limitations which the commission obviously felt were imposed on its jurisdiction in such matters. In the first instance, the Supreme Court held at its last session that the Federal Trade Commission had no power under its act to divest property that had already been acquired; and secondly, you do not find in this order provision for divesting ownership, and apparently you might gather from this order that the commission did not feel it within its jurisdiction to prevent a distributor or producer from entering the exhibition field under all circumstances—in other words, that the exhibition of products by a distributor or a producer was not, in and of itself, an unfair method of competition.

Certain portions of the order were then read into the record. (Tr. p. 336.)

Exhibitors' Resolution No. 6.—From the standpoint of the independent exhibitor this is probably one of the most important resolutions passed by the conference. It provides a means whereby justice and equity should supplant the alleged unfairness to which independent exhibitors claim they have been subjected in the matter of being compelled to enter into contracts containing clauses of which they disapprove but were left no choice other than to forego the purchase of films or sign on the dotted line. The resolution provides for the rewriting of the standard uniform contract and for such modification and changes in the system of arbitration as a committee of six shall deem necessary. This committee consists of six members, three of whom are to be designated by the independent delegates and three to be designated by the producer-distributor members present at the conference. If the six members can not unanimously agree on a seventh member in the event of dispute they are to request the Chief Justice of the Supreme Court of the United States to name such seventh member. The resolution as finally passed reads as follows:

Whereas the motion-picture industry recognizes that commercial arbitration promotes good will, economy, and better standards of business, and is endeavoring to develop in the most complete way possible a system of arbitration for the settlement of disputes between distributors and exhibitors which will be both fair to all and speedily expeditious; and

Whereas it is the desire of all branches of the industry to use a uniform exhibition contract, both to standardize its contractual relations and to provide for such arbitration; and

Whereas it is the further desire of all branches of the industry that the standard exhibition contract so providing for such system of arbitration shall be fair as possible at this time and shall be changed or modified as from time to time experience may demonstrate that it should be changed, and the further desire that the present provisions of such contract and all future changes or

modifications herein shall themselves be subject to arbitration, and the further desire that the rules and regulations for the arbitration of all disputes arising under such contract shall be as fair as possible at this time and shall be changed or modified from time to time by arbitration, as experience may demonstrate and warrant that they should be; and

Whereas it is believed that changes can be effected in such standard exhibition contract to improve the same: Now, therefore, be it

Resolved, (1) That to carry out the purposes of this resolution and the desire of all branches of the industry to promote fair arbitration and contractual relations, a committee of six shall be immediately designated, consisting of three members chosen by the exhibitor delegates here assembled and three members chosen by the producer-distributor delegates here assembled; that such committee shall immediately institute a study of the provisions of such standard exhibition contract and the rules for the arbitration provided for therein, and develop improvement in such contract and in such rules for arbitration, and develop a plan for the further operation of arbitration. In the event the exhibitor members and producer-distributor members of said committee are unable to agree, a seventh member of such committee shall be designated, such seventh member to be chosen unanimously by the six members, and if such six members can not unanimously agree on such seventh member, then the Chief Justice of the Supreme Court of the United States shall be asked by such committee to appoint its seventh member.

(2) That after such adoption of such modified standard exhibition contract and such modified rules of arbitration, it shall be the further purpose of such committee to have periodical considerations of both said contract and rules of arbitration at consistent periods, under the plan therefor which said committee shall develop to consider whether changes in such standard exhibition contract and arbitration rules are warranted by experience, and at such periodical deliberations the seventh member may be called in for decisions.

(3) It is understood that such amended standard exhibition contract and amended rules of arbitration shall be ready for use for the season 1928-29: Be it further

Resolved, That the use of a standard uniform contract providing for arbitration both of disputes arising out of said contract and of the provisions of the contract itself is a fair trade practice.

(Substitute Exhibitor Res. No. 6 amended to show that the three voting delegates shall be unaffiliated, but that two affiliated delegates may participate without the right to vote.

Amended to three affiliated delegates without right to vote.) (Tr. 334.)

Received as a resolution of the conference with one opposing vote. (Tr. p. 334.)

PERSONNEL OF COMMITTEE SELECTED TO CARRY OUT THE REQUIREMENTS OF EXHIBITORS' RESOLUTION NO. 6

For the affiliated exhibitors.—E. A. Schiller, Harold Franklin, Fred Desberg. *Alternates:* M. V. Richards, Dan Michaelove, Harry M. Crandall.

For the unaffiliated exhibitors.—R. R. Beichele, Ben Bernstein, Nathan Yamins. *Alternates:* J. L. Rome, H. A. Cole, Joseph Walsh.

For distributors and producers.—Felix Feist, J. R. Grainger, Phil Reisman.

Exhibitors' Resolution No. 7.—The following resolution was adopted without discussion:

Resolved, That the insertion of commercial advertising for which compensation is received, in motion-picture productions leased to exhibitors as entertainment, is unfair trade practice.

Introduced, page 371; adopted, page 371.

Exhibitors' Resolution No. 8.—This is a companion resolution to exhibitors' Resolution No. 3-B and is commented on under that heading. It reads as follows:

Resolved, That the refusal of a distributor to lease a photoplay or photoplays to an exhibitor for exhibition within a reasonable time after its prior run, shall be considered an unfair trade practice.

Vote sharply divided—distributors and affiliated group opposed, and unaffiliated exhibitors in favor of the measure. (Tr. 368.)

Exhibitors' Resolution No. 9.—This resolution is intended to secure to the exhibitor the pictures which he contracts to buy, and stars, directors, or stories upon which the picture is based can not later be substituted without the consent of the purchasing exhibitor. The resolution as amended reads as follows:

Resolved, That the substitution by a producer or distributor for any photoplay contracted for by any exhibitor, as the photoplay of a specified star or of a specified director, or as based on a specified story, book, or play of any photoplay in which such specified star does not appear, or which has not been directed by such specified director, or which is not based upon such specified story, book, or play, as the case may be, unless with the consent of the exhibitor, is an unfair trade practice. (Tr. 389.)

Interpretation.—This resolution was adopted with the understanding that if the contract mentions neither star, cast, director, nor author in the description of the story which in the work sheets is described as a play of college life but when delivered it proves to be a story dealing with the mining fields of Pennsylvania, would be a substitute within the meaning of the resolution.

DISTRIBUTORS' RESOLUTIONS

The distributors' resolutions appearing below condemn coercive block booking; fake motion-picture production schemes; fake motion-picture acting schools; fake motion-picture scenario schools, or other dishonest enterprises which trade on the public's ambition to become a part of the motion-picture industry; the use of misleading or salacious advertising; violation of film-exchange fire regulations; the practice of transferring titles to theaters without making at the same time provisions for transferring existing contracts; the "bicycling of films" or the surreptitious use of film in theaters other than those contracted for; delaying the return of films for the purpose of securing additional exhibition time without compensation, or by

reason of such delay making impossible the shipment of such film to the next customer who has booked it; commercial bribery; the use of film at a theater other than the theaters specified in the contract; failure to report promptly percentage bookings; agreement among distributors to boycott the exhibitor or to exact higher rental value than can be obtained in open competition; and the use of buying power by an exhibitor to buy more films than he can use, for the purpose of attempting a corner or to force a competing exhibitor out of business, or to force him to sell his theater.

DISTRIBUTORS' RESOLUTION No. 1

Resolved, That the requirement by any distributor that an exhibitor, as a condition of being permitted to purchase any picture of such distributor shall also purchase pictures of another distributor, is an unfair trade practice.

Received without objection. (Tr. 116.)

DISTRIBUTORS' RESOLUTION No. 2

This resolution did not reach voting stage.

DISTRIBUTORS' RESOLUTION No. 3

Whereas the Motion Picture Producers and Distributors of America (Inc.) has allied itself with the International Advertising Association, the National Association of Credit Men, the American Bankers' Association, and the National Better Business Bureau, to prevent fraudulent activities: Now, therefore, be it

Resolved, That the proper educational work of the Motion Picture Producers and Distributors of America (Inc.), in cooperation with such other organizations, with respect to any attempted fraudulent enterprises relating to motion pictures, to the end that the public may not be defrauded by fake motion-picture production schemes, fake motion-picture acting schools, fake motion-picture scenario schools, or other dishonest enterprises which trade on the public's ambition to become a part of the motion-picture industry, is a fair trade practice.

Accepted as a resolution of the conference. (Tr. 120.)

DISTRIBUTORS' RESOLUTION No. 4

Whereas the use of misleading or salacious advertising is recognized as an evil; and

Whereas the distributors of motion pictures represented in the membership of the film boards of trade themselves will not use misleading or salacious advertising in connection with their product:

Resolved, That it is a fair trade practice to use their best efforts to discourage others in the industry from using misleading or salacious advertising.

Received as a resolution of the conference. (Tr. 121.)

DISTRIBUTORS' RESOLUTION No. 5

Whereas it is a trade practice to enforce in 482 film exchanges in the United States rules and regulations for the prevention of fire more drastic than those provided by the State and city fire commissioners; and fire drills are conducted each week, a safety committee comprising three branch exchange managers and secretary of the local film board of trade conducts a rigid monthly inspection, enforcing regulations regarding general housekeeping conditions to prevent fire,

including regulations against smoking, protecting film or waste matter from contact with radiators, steam pipes, and electric lights; testing sprinkler systems and fire extinguishers, eliminating the use of any inflammable material in the shipping and inspection departments and preventing accumulation of scrap film, and every other possible regulation to protect the lives of employees and to insure safety; and

Whereas the reports of the safety committee are checked in the home office of the film board of trade; and any violation of any rule or regulation is immediately corrected; and as a result of this work fires in film exchanges have been practically eliminated; and since January 1, 1927, there has been no fire loss in any department in the distribution of film:

Resolved, That such regulation of film exchanges is a fair trade practice.

Adopted. (Tr. p. 123.)

DISTRIBUTORS' RESOLUTION No. 6

Whereas throughout the United States to-day more than 1,500 public, private, and charitable sectarian and nonsectarian institutions for caring for "shut-ins" are showing motion pictures; and such motion picture programs are furnished to these various institutions by national and regional distributors through the various film boards of trade under a plan whereby the responsibility for such distribution is divided among all members of each board; and in most instances such motion-picture programs are furnished free of charge to such institutions as orphan asylums, homes for the aged, tuberculosis hospitals, and institutions housing war veterans; and

Whereas in some cases they are furnished upon payment of the postal or express charges to ship and return the films and in other instances where institutions have appropriations available with which to purchase entertainment for the inmates, nominal charges are made; and

Whereas in all instances motion-picture films are furnished to such institutions with the understanding that they are to be shown only to the inmates and attendants of their respective institutions and that the general public is not to be admitted either free of charge or for an admission charge: Now, therefore, be it

Resolved, That the admission of the public, either free of charge or for an admission charge, to any such motion-picture entertainment or performance is an unfair trade practice and unfair competition to theater owners; and

Resolved, That the showing of motion pictures in such institutions where the public is not admitted, either free of charge or for an admission charge, is a fair trade practice.

Received as a resolution of the conference. (Tr. 143.)

DISTRIBUTORS' RESOLUTION No. 7

That the practice of transferring title to a theater without making an honest and sincere effort for the transferring at the same time of existing contracts is an unfair trade practice.

Received as a resolution of the conference. (Tr. 145.)

DISTRIBUTORS' RESOLUTION No. 8

The purchasing of photoplays for a specific theater, which photoplays are also used in other theaters uncontracted for, commonly known as "bicycling," is an unfair trade practice.

Received as a resolution of the conference. (Tr. 147.)

DISTRIBUTORS' RESOLUTION No. 9

Deliberately returning a print late, thus securing additional exhibition time without payment of the rental therefor, or by reason of such delay making it impossible to ship such print to the next exhibitor who has it booked, is an unfair trade practice.

Received as a resolution of the conference. (Tr. 148.)

DISTRIBUTORS' RESOLUTION No. 10

Resolved, That the giving of any gratuity, either by an exhibitor to a salesman or a salesman to an exhibitor, in exchange for advantages not otherwise procurable between buyer and seller, either in relation to the sale or booking of motion pictures, is an unfair trade practice.

Received by conference without objection. (Tr. 149.)

DISTRIBUTORS' RESOLUTION No. 11, AS AMENDED

Resolved, That the use of a signed application for a contract by an exhibitor, and the showing of the rental prices thereon, either by a distributor to another exhibitor for the purpose of securing higher rental prices, or by an exhibitor to a distributor other than to whom such application is addressed, for the purpose of securing a reduction of rental prices, is an unfair trade practice.

Received without objection. (Tr. 340.)

DISTRIBUTORS' RESOLUTION No. 12

Withdrawn.

DISTRIBUTORS' RESOLUTION No. 13

Resolved, That the practice of contracting for pictures for one theater and using service at an entirely different theater than the one specified in the contract is an unfair trade practice.

Received without objection. (Tr. 152.)

DISTRIBUTORS' RESOLUTION No. 14

Resolved, That failure on the part of the exhibitor to promptly report correctly the results of percentage bookings is an unfair trade practice.

Received by conference without objection. (Tr. 153.)

DISTRIBUTORS' RESOLUTION No. 15, AS AMENDED

Withdrawn. (Tr. 363.)

DISTRIBUTORS' RESOLUTION No. 16

Resolved, That any agreement among competing exhibitors to allocate among themselves the motion pictures of distributors, thereby eliminating competition in the rental of such motion pictures, is an unfair trade practice.

Adopted. (Tr. 343.)

DISTRIBUTORS' RESOLUTION No. 16-A

Resolved, That any agreement among distributors to prevent any exhibitor from contracting for the motion pictures of such distributors, or to exact from such exhibitor a higher rental for the motion pictures of such distributors

than could otherwise be obtained in open competition, is an unfair trade practice.

Adopted. (Tr. 343.)

DISTRIBUTORS' RESOLUTION No. 17

Withdrawn. (Tr. 363.)

DISTRIBUTORS' RESOLUTION No. 18

Resolved, That the use of buying power for the purchase of more photo-plays than an exhibitor can consume, in order to deprive a competing exhibitor of the opportunity of purchasing his supply of photo-plays, whether it be an attempt to corner the market against such competing exhibitor, or whether it be with the thought of forcing a competing exhibitor out of business, or the compelling of such competing exhibitor to sell his theater, is an unfair trade practice.

Received without objection. (Tr. 159.)

DISTRIBUTORS' RESOLUTION No. 19

Withdrawn. (Tr. 160.)

PRODUCERS' RESOLUTIONS

Of equal importance with exhibitors' Resolution No. 6 is the agreed statement of policy adopted by the producers and distributors, and accepted by the independent exhibitors. This action modifies the system of block booking in the following important particulars:

It eliminates double and triple coercive block booking, which is a vicious feature of the block-booking system, requiring exhibitors not only to take the block of pictures made by the producer offering them, but to take, also, the pictures of certain other producers.

It prevents the producer from refusing to lease feature pictures unless the exhibitor also leases news reels and short subjects, and these are not to be included in any block. This was a feature of the block booking which was strenuously insisted upon by the producers, and was strenuously complained of by exhibitors.

It relieves the exhibitor of paying for pictures in any block which will prove offensive to the patrons of his theater because of racial or religious subject matter.

It allows the exhibitor, after purchasing an entire block, to reject 10 per cent of the number of pictures in that block, but he must share part of the alleged loss by paying one-half the allocated price therefor; but if the picture is resold by the distributor, one-half of the net price received on such resale is credited to the exhibitor up to the amount of such obligation.

It prohibits reissues from being included in block with new pictures.

AGREED STATEMENT OF POLICY PROPOSED BY PRODUCER-DISTRIBUTOR GROUPS AND ACCEPTED BY EXHIBITORS

1. The sales method known as block booking shall not be used for the accomplishment of any illegal purpose. (Tr. p. 385.)

2. No distributor will require as a condition of permitting an exhibitor to lease its pictures, that such exhibitors shall also lease pictures of another distributor. (Tr. p. 385.)

3. If an exhibitor shall claim within a reasonable time prior to the date fixed for the exhibition of any picture included in any block leased by him that such picture will be offensive to the clientele of his theater because of racial or religious subject matter, such claim shall be arbitrated by the board of arbitration of the proper zone, and, if sustained, such exhibitor shall be relieved of obligation to take and pay for such picture. (Tr. p. 386.)

4. If any exhibitor who has purchased an entire block of pictures offered by any distributor so elects within a reasonable time prior to the date fixed for exhibition of any picture included in such block, such exhibitor may refuse to take such picture by paying one-half of the allocated price thereof, provided that the pictures so rejected out of any block shall not exceed 10 per cent of the number included in such block, and if a rejected picture is resold by the distributor, one-half the net price received on such resale shall be credited against the exhibitor's obligation in respect of such picture up to the amount of such obligation. (Tr. p. 386.)

5. Reissues will not be included in any block with new pictures. (Tr. p. 386.)

6. News reels and short subjects will not be included in any block with features, and the lease of news reels or short subject blocks shall not be required as a condition of being permitted to lease feature blocks, or vice versa. (Tr. p. 386.)

7. The matters dealt with by paragraphs three and four shall be covered by appropriate provisions to be included in the new standard form of contract. (Tr. p. 386.)

(No objection by exhibitors providing their future rights in this matter are not prejudiced. Accepted without objection as a resolution of the conference.)

PRODUCERS' RESOLUTION NO. 1

This is intended to raise the moral tone of production to the highest standards, to eliminate deceptive titles, and to prevent misleading, salacious, or dishonest advertising.

The resolution is as follows:

Whereas the Motion Picture Producers and Distributors of America (Inc.), consisting of the following companies, to wit:

Bray Productions (Inc.).
Chadwick Productions.
Christie Film Co. (Inc.).
Cecil B. de Mille Pictures Corporation.
Distinctive Pictures Corporation.
Eastman Kodak Co.
Educational Film Exchanges (Inc.).
F. B. O. Pictures Corporation.
First National Pictures (Inc.).
Fox Film Corporation.
D. W. Griffith (Inc.).
Inspiration Pictures (Inc.).
Buster Keaton Productions.
Kinogram Publishing Corporation.
Metro-Goldwyn-Mayer Distributing Corporation.
Paramount Famous-Lasky Corporation.
Principal Pictures Corporation.
Producers Distributing Corporation.
Pathe Exchange (Inc.).
Hal Roach Studios.
Joseph M. Schenck Productions (Inc.).
Talmadge Producing Corporation.
United Artists Corporation.
Universal Pictures Corporation.
Vitagraph (Inc.).

Warner Bros. Pictures (Inc.), and the Association of Motion Picture Producers (Inc.) of California, which consists of the following companies, to wit:

Christie Film Co. (Inc.).
Cecil B. de Mille Pictures Corporation.
F. B. O. Pictures Corporation.
First National Productions Corporation.
William Fox Vaudeville Co.
Samuel Goldwyn (Inc.).
Harold Lloyd Corporation.
Metro-Goldwyn-Mayer Corporation.
Metropolitan Pictures Corporation.
Paramount Famous-Lasky Corporation.
Hal Roach Studios.
Mack Sennett (Inc.).
United Artists Studio Corporation.
Universal Pictures Corporation.
Warner Bros. Pictures (Inc.).
Jack White Comedy Corporation.
Asher, Small & Rogers (Inc.).
Kane Productions (Inc.).
Sam E. Rork (Inc.).

have subscribed to the following resolution:

"Whereas the members of the Motion Picture Producers and Distributors of America (Inc.), in their continuing effort to 'establish and maintain the highest possible moral and artistic standards of motion-picture production,'

are engaged in a special effort to prevent the prevalent type of book and play from becoming the prevalent type of picture; to exercise every possible care that only books or plays which are of the right type are used for screen presentation; to avoid the picturization of books or plays which can be produced only after such changes as to leave the producer subject to a charge of deception; to avoid using titles which are indicative of a kind of picture which could not be produced, or by their suggestiveness seek to obtain attendance by deception, a thing equally reprehensible; and to prevent misleading, salacious, or dishonest advertising: Now, therefore, be it

Resolved by the board of directors of the Motion Picture Producers and Distributors of America (Inc.), That said association does hereby reaffirm its determination to carry out its purposes above set out; and does hereby repledge the best efforts of the members of the association to that end; and does hereby further declare that they will not produce or promote the production, distribute or promote the distribution, exhibit or promote the exhibition, or aid in any way whatsoever in the production, distribution, or exhibition by the members of this association or by companies subsidiary to said members, or by any other person, firm, or corporation producing, distributing, or exhibiting pictures, of any picture or pictures, by whomsoever produced, distributed, or exhibited, which because of the unfit character of title, story, exploitation, or picture itself, do not meet the requirements of this preamble and resolution, or hinder the fulfillment of the purposes of the association set out herein.

"And whereas in carrying out the purposes of the aforesaid resolution, when any company member of the Motion Picture Producers and Distributors of America (Inc.) is offered the screen rights to a book or play of a questionable nature, its representatives immediately inform the officers of that association; and if the judgment of the member company to the effect that the picturization of the subject matter is inadvisable is confirmed, a notice is sent to all the other member companies giving the name of the objectionable book or play and such company members thus having their attention directed to the subject in question have the opportunity of avoiding the picturization of the novel or play:"

Resolved, That this is a fair trade practice.

Introduced at page 86; adopted without objection, page 90.

PRODUCERS' RESOLUTION NO. 2

Provides a formula with reference to the selection and rejection of certain story material for picturization, and reads as follows:

Whereas, for the purpose of further establishing and maintaining the highest possible moral and artistic standards in motion pictures, the following companies, members of the Motion Picture Producers and Distributors of America (Inc.), to wit:

Bray Productions (Inc.).
Chadwick Productions.
Christie Film Co. (Inc.).
Cecil B. de Mille Pictures Corporation.
Distinctive Pictures Corporation.
Eastman Kodak Co.
Educational Film Exchanges (Inc.).
F. B. O. Pictures Corporation.
First National Pictures (Inc.).

Fox Film Corporation.
D. W. Griffith (Inc.).
Inspiration Pictures (Inc.).
Buster Keaton Productions.
Kinogram Publishing Corporation.
Metro-Goldwyn-Mayer Distributing Corporation.
Paramount Famous-Lasky Corporation.
Principal Pictures Corporation.
Producers Distributing Corporation.
Pathé Exchange (Inc.).
Hal Roach Studios.
Joseph M. Schenck Productions (Inc.).
Talmadge Producing Corporation.
United Artists Corporation.
Universal Pictures Corporation.
Vitagraph (Inc.).
Warner Bros. Pictures (Inc.).

And the following members of the Association of Motion Picture Producers (Inc.) of California, to wit:

Christie Film Co. (Inc.).
Cecil B. de Mille Pictures Corporation.
F. B. O. Pictures Corporation.
First National Productions Corporation.
William Fox Vaudeville Co.
Samuel Goldwyn (Inc.).
Harold Lloyd Corporation.
Metro-Goldwyn-Mayer Corporation.
Metropolitan Pictures Corporation.
Paramount Famous-Lasky Corporation.
Hal Roach Studios.
Mack Sennett (Inc.).
United Artists Studio Corporation.
Universal Pictures Corporation.
Warner Bros. Pictures (Inc.).
Jack White Comedy Corporation.
Asher, Small & Rogers (Inc.).
Kane Productions (Inc.).
Sam E. Rork (Inc.).

have adopted the following formula with reference to the selection and rejection of certain story material for picturization:

Resolved, That those things which are included in the following list shall not appear in pictures produced by the members of this association, irrespective of the manner in which they are treated.

"1. Pointed profanity—by either title or lip—this includes the words 'God,' 'Lord,' 'Jesus,' 'Christ' (unless they be used reverently in connection with proper religious ceremonies), 'Hell,' 'damn,' 'Gawd,' and every other profane and vulgar expression, however it may be spelled.

"2. Any licentious or suggestive nudity—in fact or in silhouette; and any lecherous or licentious notice thereof by other characters in the picture.

"3. The illegal traffic in drugs.

"4. Any inference of sex perversion.

"5. White slavery.

- "6. Miscegenation (sex relationships between the white and black races).
 - "7. Sex hygiene and venereal diseases.
 - "8. Scenes of actual child-birth—in fact or in silhouette.
 - "9. Children's sex organs.
 - "10. Ridicule of the clergy.
 - "11. Willful offense to any nation, race, or creed: And be it further
Resolved, That special care be exercised in the manner in which the following subjects are treated, to the end that vulgarity and suggestiveness may be eliminated and that good taste may be emphasized:
 - "1. The use of the flag.
 - "2. International relations (avoiding picturizing in an unfavorable light another country's religion, history, institutions, prominent people, and citizenry).
 - "3. Arson.
 - "4. The use of firearms.
 - "5. Theft, robbery, safe cracking, and dynamiting of trains, mines, buildings, etc. (having in mind the effect which a too detailed description of these may have upon the moron).
 - "6. Brutality and possible gruesomeness.
 - "7. Technique of committing murder by whatever method.
 - "8. Methods of smuggling.
 - "9. Third degree methods.
 - "10. Actual hangings or electrocutions as legal punishments for crime.
 - "11. Sympathy for criminals.
 - "12. Attitude toward public characters and institutions.
 - "13. Sedition.
 - "14. Apparent cruelty to children and animals.
 - "15. Branding of people or animals.
 - "16. The sale of women, or of a woman selling her virtue.
 - "17. Rape or attempted rape.
 - "18. First night scenes.
 - "19. Man and woman in bed together.
 - "20. Deliberate seduction of girls.
 - "21. The institution of marriage.
 - "22. Surgical operations.
 - "23. The use of drugs.
 - "24. Titles of scenes having to do with law enforcement or law enforcement officers.
 - "25. Excessive or lustful kissing, particularly when one character or the other is a 'heavy.'
- Resolved*, That the execution of the purposes of this resolution is a fair trade practice.

Introduced at page 91; adopted without objection, page 95.

PRODUCERS' RESOLUTION NO. 3

Relates to the establishment and functioning of a nonprofit casting bureau, for the purpose of bringing about betterments in working and other conditions with reference to persons known as "extras" employed in the motion-picture studios. Said resolution is as follows:

Whereas there existed a practice with respect to the securing of employment by extras in motion-picture studios through agencies which charged them a fee

of from 8 to 15 per cent for placing such extras each time they secured a position through such agencies; and

Whereas, besides certain legitimate casting agencies, there were many questionable agencies that preyed upon would-be motion-picture extras and by their activities brought great discredit upon the motion-picture industry; and

Whereas, at the request of the Motion Picture Producers and Distributors of America (Inc.), the Russell Sage Foundation made a survey of the entire situation in conjunction with the State Labor Commission of California and the Association of Motion Picture Producers of California; and

Whereas the findings of the survey resulted in a joint recommendation that the industry operate and maintain free of cost to the motion-picture extra a central employment bureau, and

Whereas the Central Casting Corporation has been established and has been functioning in the recommended manner for a period of 21 months and has made 502,916 placements in that time without cost to the extra, and has brought about certain other betterments in working conditions of such extras: Now therefore be it

Resolved, That the establishment and functioning of such a nonprofit casting bureau be, and the same hereby is, declared to be a fair trade practice.

Introduced at page 102; adopted without objection, page 103.

PRODUCERS' RESOLUTION NO. 4

Relates to a formula for the prevention of exploiting children employed in motion-picture productions, and is as follows:

Whereas the Los Angeles Board of Education and the State of California labor authorities were experiencing great difficulty in restraining the improper exploitation of children in motion pictures by their parents, which resulted in nonattendance at school and an insufficient ratio of work and recreation; and

Whereas the Association of Motion Picture Producers and the California State Labor Bureau and the Department of Compulsory Education of Los Angeles by joint recommendation consummated the present method by which a teacher is supplied by the board of education and paid for by the producers in every studio, together with similar financing of class-room facilities where children are engaged in motion-picture production so that each child works not more than four hours during the day and has its regular schooling and recreation; and

Whereas any child not proficient in its lessons can not secure a permit to work in pictures, with the result that the practice of improperly exploiting the child has been entirely eliminated: Now, therefore, be it

Resolved, That the present formula obtaining in respect to the employment of minors in motion-picture production, as set forth in the foregoing preamble is a fair trade practice.

Introduced at page 104; adopted without opposition, page 105.

PRODUCERS' RESOLUTION NO. 5

Relates to the lending of employees under contract by one producer to another, and reads as follows:

Whereas producers at times desire to lend employees under contract for whose services there exists no current necessity, and

Whereas the services of such temporarily disengaged contract employees may be desired by another producer; and

Whereas waste is avoided and the interests of both employer and employee are advanced by continuous employment: Now, therefore, be it

Resolved, That the practice of a producer lending an employee under contract to another producer, for an amount equal to the salary paid to the contract employee plus a reasonable amount to absorb the fair pro rata of such employee's idle time, is a fair trade practice.

Introduced at page 106; adopted without objection, page 107.

PRODUCERS' RESOLUTION NO. 6

Relates to inducement of breach of contract, and reads as follows:

Whereas the following rule or regulation has been adopted by all the members of the Motion Picture Producers and Distributors of America (Inc.):

"No member shall directly or indirectly or through the instrumentality of any officer, employee, agent, representative, or servant of such member, or otherwise offer or cause to be offered any money inducement or advantage of any kind to any actor, director, or employee of any other member of this association in an effort to persuade or induce such actor, director, or employee to become dissatisfied with such employment and to breach any contract between such actor, director, or employee and any other member."

Resolved, That such a rule is a fair trade practice.

Introduced at page 107; adopted without objection, page 107.

PRODUCERS' RESOLUTION NO. 7

Relates to a system of registering titles for the purpose of avoiding duplication and conflict, and reads as follows:

Whereas, to avoid duplication and conflict in titles for motion pictures, the members of the Motion Picture Producers and Distributors of America (Inc.) have a plan for the registering with the Motion Picture Producers and Distributors of America (Inc.) of their intention to produce a certain motion picture under a certain title, and through such registration have exclusive right to that title; and

Whereas such plan further provides that if the title registered duplicates or conflicts with a title already registered by another member of the Motion Picture Producers and Distributors of America (Inc.), the parties whose titles conflict are notified so that they may confer to avoid conflict, with the understanding that the company first registering a title possesses the right to use the title unless it voluntarily withdraws its prior registration in favor of the later one, or it is shown that the member making the later registration has, by purchase or otherwise, obtained prior legal right to the title: Be it

Resolved, That this is a fair trade practice.

Introduced at page 108; adopted without objection, page 115.

RECAPITULATION OF RESOLUTIONS

EXHIBITORS' RESOLUTIONS

No. 1.—Adopted.

Nos. 2 and 5.—Sharp division of vote between unaffiliated and the other groups.

Nos. 3-a, 3-b and 8.—Sharp division of vote between unaffiliated and the other groups.

No. 4.—Did not reach a vote.

Nos. 6, 7, and 9.—Adopted.

DISTRIBUTORS' RESOLUTIONS

No. 1.—Adopted.

No. 2.—Did not reach a vote.

Nos. 3, 4, 5, 6, 7, 8, 9, 10, 11.—Adopted.

No. 12.—Withdrawn.

Nos. 13 and 14.—Adopted.

No. 15.—Withdrawn.

No. 16.—Adopted.

No. 16-A.—Adopted.

No. 17.—Withdrawn.

No. 18.—Adopted.

No. 19.—Withdrawn.

PRODUCERS' RESOLUTIONS

Nos. 1 to 7, inclusive.—All adopted.

Agreed statement of policy was presented by the producers and distributors and accepted by the unaffiliated exhibitors.

Respectfully submitted.

M. MARKHAM FLANNERY,

Director, Trade Practice Conferences.

NOVEMBER 25, 1927.

○

MSH 23563

**END OF
TITLE**